

SECTION 1.1-1 Building Permits

1.1-1.1 Before any building or structure shall be commenced or undertaken, the person or persons, firm, or corporation, being the owner or owners, or having charge of the said building or buildings, or the lands upon which such building or structure is to be erected, constructed, altered, repaired or removed, or the agent of such owner or owners, a building permit must be obtained from the Kent County Building Permits Office.

1.1-1.2 Before a building permit shall be granted under Section 1.1-1.1, a Certificate of Zoning Compliance shall be obtained from the Town of Clayton as provided in the Town of Clayton Zoning Ordinances.

1.1-1.3 Any building permit issued by Kent County shall be subject to the following limitation:

Any construction on the exterior of all additions and/or renovations shall be completed within six (6) months from the date of the issuance of the permit by the Kent County Building Inspection Office. Completion shall include, but not limited to, the installation of doors, windows, siding, and paint where applicable in accordance with the materials as included in the Building Permit Application.

1.1-1.4 One three (3) month extension for completion of the exterior portion may be approved by the Town of Clayton Zoning Administrator if required in writing, and then if the work has been diligently pursued in good faith. An additional three (3) month extension may be approved with good cause. Good cause shall be designated as a substantial effort to complete the construction in accordance with the building permit and shall constitute at least 75 percent of the work completed.

1.1-1.5 Failure to comply with the provisions of this ordinance shall render the owner of the property or applicant of the permit subject to the penalties provided in Title 6, Section 6.7-7, of the Clayton Zoning Ordinance as amended.

SECTION 1.2-1 Utility Deposits

1.2-1.1 The Town of Clayton shall charge a utility deposit which shall take the place of the deposit for electric service and shall be viewed as a deposit for payment of water and sewer bills and shall be in such amount as Council for the Town of Clayton deems appropriate and just.

1.2-1.2 The initial amount for the deposit shall be set in accordance with the terms of this Ordinance and thereafter shall be modified on the second Monday in May following the election of the members of Council.

1.2-1.3 The purpose of the utility deposit shall be to provide security for electric, water, and sewer service regardless of whether the proposed utility service is for residential or non-residential use.

1.2-1.4 Any person(s) or entity making application for electric, water, or sewer service for a residence or a business enterprise shall apply at the Town Office and make a deposit of \$125.00. Twenty-five dollars (\$25.00) is a non-refundable connection fee and \$100.00 is refundable and shall only be returned to the person(s) or entity applying within 30 days after the subsequent termination of said utility service and only after all bills, charges, or assessments due to the Town of Clayton have been fully paid.

1.2-1.5 Any person(s) or entity making application for electric, water, or sewer service who is renting a residence or a business enterprise shall apply at the Town Office and make a deposit of \$200.00. Twenty-five dollars (\$25.00) is a non-refundable connection fee and \$175.00 is refundable and shall only be returned to the person(s) or entity applying within 30 days after a subsequent termination of said utility service and only after all bills, charges, or assessments due to the Town of Clayton have been fully paid.

<p style="text-align: center;">SECTION 1.2-2 Payment of Utility Charges</p>

1.2-2.1 Bills are payable at the Town of Clayton offices located at 414 Main Street during regular business hours (8:00 a.m. – 4:30 p.m.) Monday through Friday or can be sent via U.S. mail to: Town of Clayton, P.O. Box 1130, Clayton, DE 19938. The Town Office phone number is (302) 653-8419.

1.2-2.2 Rates are stated on a monthly basis and bills are rendered monthly. Meter readings are scheduled at intervals of approximately 27 to 33 days. The Town of Clayton reserves the right to extend the billing interval(s). When the monthly billing period is greater than 33 or less than 27 days, the Town has the option to compute the bill by prorating for 30 days on the basis of the average daily use for the actual period covered by the meter readings. Under abnormal conditions where the meters cannot be read at all, the bills will be estimated.

1.2-2.3 All bills are due and payable by the 20th of the month. If the due date should fall on a Saturday, Sunday, or holiday, the due date shall be extended to the next business day.

1.2-2.4 When the Town's meter reader is unable to read the Customer's meter, the Town may render an estimated bill. Other reasons for estimating the bill could include discovery of inoperable or defective meters, or when the reading taken by the meter reader varies significantly from past consumption.

1.2-2.5 All bills and invoices submitted to the citizens and customers of the Town of Clayton must be paid in cash, money order, credit card (MasterCard, Visa, or Discover), e-check, or check drawn on a local out-of-state bank provided said bank is insured by the Federal Depository Insurance Corporation or a related government insurance agency.

1.2-2.6 Late payment notices are mailed to the customer's billing address. If payment for bills rendered is not received by the Town of Clayton by the 20th of the month, a late payment charge shall be added to the amount due for each metered account. The amount of the late payment charge is \$15.00 for electric and \$15.00 for water service. Payments shall be credited against the most delinquent charges. The customer may waive their late fee one (1) time during the calendar year.

1.2-2.7 Any method of payment (including credit card payments, e-checks, and negotiable items) that are received by the Town of Clayton and returned without payment will be subject to a \$30.00 processing fee. A customer in violation of this Ordinance shall receive two calendar days to present guaranteed funds in the form of cash or money order. Failure to pay the balance owed, accrued late fees and the \$30.00 processing fee will result in termination of service.

1.2-2.8 If any checks, including e-checks received by the Town of Clayton for the payment of any utility billings are returned to the Town twice in any given calendar year because of insufficient funds, the customer having the responsibility of paying said billing shall be required to pay all utility billings to the Town of Clayton in cash or money order.

1.2-2.9 Upon application to the Town Council, any citizen or customer having forfeited the right of paying the utility bills by check may request to restore check writing privileges upon good cause.

SECTION 1.2-3 Electric Service

1.2-3.1 Electrical service within the Town of Clayton shall be governed by the Clayton Municipal Electrical Department Rules and Regulations adopted on January 1, 1994 and as amended.

1.2-3.2 **Electric Rates**

- a. Rates. Electric rates shall be set by the Town in December of each year to be effective at the beginning of the next year.
- b. Billing Due Date; Late Payment Penalty; Disconnection for Non-Payment; Reconnection.
 - (1) Electric bills will be prepared and submitted by the Town on a monthly basis and shall be due 20 days after the bill is sent.
 - (2) Late Payment Penalty. When any bill is not paid in full by its due date, a late payment penalty shall be imposed of \$15.00 per month until the entire amount (including accrued late payment penalties) is paid in full.
 - (3) If not paid by the due date, the Town may under Section 1.2-3.3 disconnect the service.
 - (4) If disconnected for non-payment or for non-compliance with any rules or regulations of the Town pertaining to electric, no electric service shall be reconnected until all past due amounts are paid in full and the reconnection fee required under Section 1.2-3.4 is paid in advance.
 - (5) If payment of bills rendered is not received by the Town by the twentieth (20th) of the month, a late payment charge shall be added in the amount due for each metered account. The amount of the late payment charge is listed in the schedule of fees and charges. Payments shall be credited

against the most delinquent charges. The customer may request waiver of the late fee one (1) time during the calendar year.

c. Advance Payment Required for Customers Receiving Electric Service Outside Town Limits.

- (1) Whenever the Town elects to extend electric service to serve properties outside the Town limits, the Town shall require in advance prior to connection of such service an advance payment from such customer in an amount estimated to equal 150% of that customer's reasonably estimated average bill for such service(s) but in no event less than \$10.00. The amount of such cash advance payment may be increased by the Town or reduced at the request of the customer based upon actual billings for the first three (3) consecutive months.
- (2) The Town shall not require advance payment from customers receiving electric service outside Town limits as of the effective date thereof unless such customer has a history of delinquent payments for service previously received. In any case where an existing customer outside the Town limits is not required to provide advance payment because of a satisfactory payment history with the Town, the Town may subsequently require such advance payment if future delinquencies indicate such advance payment is appropriate.

1.2-3.3 Disconnection

a. Reasons for Disconnection. Electric service to any customer may be disconnected by the Town under the following circumstances.

- (1) At the customer's request.
- (2) For failure to pay in full any electric bill within twenty (20) days from the due date of the billing.

1.2-3.4 Disconnection Procedure; Reconnection Procedure

Except where disconnection is at the customer's prior written request, no electric service shall be disconnected by the Town unless the following procedures are substantially complied with:

- a. Written notice shall be sent to the customer at the customer's last address as provided to the Town office by such customer regular mail (or at the Town's option, by personal delivery). Delivery shall be deemed complete upon depositing such letter, postage prepaid, in the U.S. Mail (or if personally delivered, handing it to an adult person on the customer's premises). Such notice shall state:
 - (1) The Town's intent to disconnect service;
 - (2) The reason(s) for such disconnection;
 - (3) The amount of any past due charges;
 - (4) That disconnection will occur within a specified number of days not less than ten (10) from the date such notice was mailed or delivered; and
 - (5) That the customer may appeal the disconnection to the Town Council during normal business hours.
- b. Appeals to the Town Council can be made in person, in writing, or by telephone and no formal procedure shall be required. The Town Council shall give the customer an opportunity to be heard concerning why service should not be disconnected and may as appropriate deny the appeal, postpone the disconnection for a stated period, or cancel the disconnection notice.
- c. In the event the problem (including payment in full of any past due amount) has not been corrected within the time stated in the notice provided under Section 1.2-3.4(a) and the Town Council has not approved any appeal from the customer, the Town may disconnect service at any time after the time stated in the written notice.
- d. Charges.
 - (1) Disconnection Fees:

- (i) Where service is disconnected at the customer's request, \$25.00 during normal business hours.
 - (ii) Where service is disconnected other than at the customer's request, \$25.00.
- (2) Reconnection Fees:
 - (i) Twenty-Five dollars (\$25.00) during normal business hours. Fifty dollars (\$50.00) after normal business hours at the customer's request. Seventy-Five dollars (\$75.00) during weekend hours.
 - (ii) All reconnection fees must be paid in advance.

1.2-3.5 Damages, Obstructions, Interference with Town Electric System

- a. No person shall damage, obstruct, or in any manner interfere with any part of the Town's electric system.

1.2-3.6 Penalties

- a. Person Defined. For purposes of this Ordinance, the word "person" shall mean and include any natural person, partnership, corporation, firm, association, or other legal entity.
- b. Penalties. Upon conviction before any court of competent jurisdiction, persons violating this Ordinance shall forfeit and pay \$50.00 for the first offense and \$100.00 for any subsequent offense. Each day of a continuing violation shall constitute a separate offense except as provided in 1.2-3.6(c).
- c. Grace Period After Conviction for First Offense of Section 1.2-6.2. Where any person is convicted of violating Section 1.2-6.2 of this Ordinance, no prosecution for a second or any subsequent offense shall be brought sooner than 15 days after the date of such decision and, if an appeal be taken, then not less than 15 days after such appeal is finally decided.

1.2-3.7 Separability, Savings Clause; Conflicting Ordinances

- a. Any and all Ordinances of the Town, or sections or parts thereof, contradictory hereto, superseded hereby, or in conflict with any provision of the Ordinance are hereby repealed to the extent of such inconsistency.
- b. Should any section, paragraph, sentence, clause, or other provision of the Ordinance be declared illegal, the remainder hereof shall remain in full force and effect.

1.2-3.8 Violations Declared Nuisances, Injunctive Relief

- a. Any violation of this Ordinance which poses a threat to the public health, safety, or welfare of the Town of Clayton or the State of Delaware is hereby declared to be a public nuisance; and in addition to prosecution for violation of any penal section of this Ordinance, the Town of Clayton may seek appropriate injunctive relief in any court of competent jurisdiction.

1.2-3.9 Aggregation of Retail Customer Demand Response

- a. The Town of Clayton or any entity that applies to be an authorized Curtailment Service Provider and is subsequently approved by the Mayor or his designee (Town Foreman) is permitted to bid demand response on behalf of retail customers served by the Town of Clayton directly into any Commission-approved independent system operator's or regional transmission organization's organized electric markets.
- b. Retail customers served by the Town of Clayton wishing to bid their demand response into a Commission-approved independent system operator's or regional transmission organization's organized electric markets may do so by participating in the program established by the Town of Clayton or with the Curtailment Service Provider duly approved by the Town of Clayton.

1.2-3.10 Ancillary Services Provided by Demand Response Resources

- a. The Town of Clayton or any entity that applies to be an authorized Curtailment Service Provider and is subsequently approved by the Mayor or his designee (Town Foreman) is permitted to bid demand response on behalf of retail customers served by the Town of Clayton directly into any Commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff).
- b. Retail customers served by the Town of Clayton wishing to bid their demand response into a Commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff) may do so by participating in the program established by the Town of Clayton or with a Curtailment Service Provider duly approved in advance by the Town of Clayton.

SECTION 1.2-4 Sewer System

1.2-4.1 The Town Council shall have general charge and superintendence of the sewage disposal plant and of all drains, gutters, sewers, and manholes which have been or may hereafter be built or constructed within the limits of the Town of Clayton.

1.2-4.2 It shall be unlawful for any person, firm, or corporation to tap any sewer within the Town of Clayton or to break ground upon any of the public streets for such purpose without first having obtained a permit in writing from the Town Council of the Town of Clayton.

1.2-4.3 It shall be unlawful for any person to pour, to drain into, or to permit the drainage into any of the sewers or sewer system of the Town of Clayton the refuse of any canning factory, slaughter house, poultry dressing plant, or any other substance that will injure such sewer or sewer system or that will obstruct the use and operation thereof.

1.2-4.4 Any person or persons violating any of the provisions of this section shall upon conviction pay to the Town of Clayton all costs of any repairs resulting from such violation and shall also pay a fine of \$50.00 dollars for the first offense and \$100.00 for each subsequent offense.

<p style="text-align: center;">SECTION 1.2-5 Plumbing Regulations</p>

1.2-5.1 The Plumbing Code for the Town of Clayton shall be the Sanitary Plumbing Code for Kent County, Delaware, and shall be administered by the Delaware State Board of Health as provided for under Chapter 79, Title 16, Delaware Code. All plumbing permits are obtained through the State of Delaware.

1.2-5.2 Roofs and paved areas, yards, courts, or other storm water shall not be drained into the sanitary sewer.

1.2-5.3 Before any plumbing work requiring authorization according to the provisions of this Code shall be started, a permit shall be obtained from the State Board of Health by the plumber who or whose firm has been employed to do the plumbing.

1.2-5.4 Any person or persons violating this section shall pay a fine to the Town of Clayton in the amount of \$50.00 for the first offense and \$100.00 for each subsequent offense.

SECTION 1.2-6 Water and Sewer Service
--

1.2-6.1 Supervision and Control; Right to Inspect

- a. Supervision and Control. The Town Foreman shall have supervision and control of the municipal water and sewer systems owned or operated by the Town of Clayton whether located within or without the municipal limits of the Town.
- b. Right to Inspect / Emergency Inspections / Penalties for Refusal.
 - (1) Right to Inspect. The Town Foreman, the Mayor, and any member of the Town Council, or any agent or employee of the Town of Clayton duly authorized for that purpose by the Town Foreman or Town Council shall have the right to inspect any premises within the Town of Clayton or, if connected to Town water and/or sewer, any premises outside the Town of Clayton during normal business hours and upon reasonable notice to the owner or occupant for any purpose within the scope of this Ordinance.
 - (2) Emergency Inspection. In the event that there exists reasonable grounds to suspect that conditions exist on any premises in violation of this Ordinance which pose a serious threat to the health, safety, and welfare of the occupants thereof or to the other citizens of the Town of Clayton, the Town shall have the right to inspect any premises at any time of the day or night without prior notice.
 - (3) Penalties for Refusal to Permit Inspection. Should any owner or occupant unreasonably refuse under the circumstances to permit inspection of their premises by any person duly authorized to do so under this Ordinance, the Town of Clayton may:
 - (i) Disconnect water and/or sewer service to the premises upon notice to the owner or occupant who may demand in writing an appeal to the Town Council which appeal shall stay

disconnected until a decision by the Town Council provided that in emergency situations under Section 1.2-6.1(b)(2), disconnection may occur immediately without prior notice with a post disconnection right to appeal for reconnection to the Town Council by the owner or occupant.

- (ii) Prosecute the owner or occupant for unreasonably denying the right of inspection to persons authorized under this Ordinance under Section 1.2-6.10 hereof.
- (iii) Seek injunctive relief in any court of appropriate jurisdiction for an order prohibiting the owner or occupant from refusing the requested inspection.

(4) Proper Purposes for Inspection. In addition to any other circumstances which may arise which reasonably justify or necessitate inspection of any premises under this Ordinance, the following shall be deemed a proper purpose justifying inspection:

- (i) To ascertain whether or not a premises fronting on a street, alley, or way in the Town of Clayton in which there is a Town water and/or sewer main is connected to the Town water and sewer system.
- (ii) To ascertain the nature, number, location, and condition of all plumbing facilities and fixtures and all sanitary sewage disposal facilities including cesspools, septic tanks, privies, and/or other types of toilets.
- (iii) To examine the lines, connections, and other facilities connecting the customer's water and/or sewer lines to the Town system.

1.2-6.2 Obligation to Connect to Town Water and/or Sewer Systems Where Available

- a. Water. Where any land and/or building(s) abuts a street, alley, or way in the Town of Clayton in which there is a Town water main, all plumbing facilities on such land or in such building(s) shall be connected to the Town water system within 90 days of the date such Town water main is available for connection to such land and/or buildings.
- b. Sewer. Where any land and/or building(s) abut a street, alley, or way in the Town of Clayton in which there is a Town sewer main, all sanitary sewage disposal facilities shall be connected thereto and to no private cesspool, septic tank, privy, or other kind of toilet not flushed into the Town sewer system shall be used thereon or therein beyond 90 days after such sewer lines become available for connection to such land and/or building.
- c. Violations. In the event that any plumbing facilities and/or sanitary sewage disposal facilities are not connected to the Town water and/or sewer system within 90 days that such water and/or sewer line becomes available for connection, in violation of Section 1.2-6.2(a) and/or Section 1.2-6.2(b), the owner and/or occupant may be prosecuted under Section 1.2-6.10 of this Ordinance.

1.2-6.3 Connections to Town Water and Sewer System; Violations; Connection Fees; Repair Fees

- a. Unauthorized Connection. No person shall tap into or make any connection to the Town sewer and/or water system nor break ground in any public street, alley, or thoroughfare in the Town of Clayton for such purposes. All connections to the Town water and sewer system shall be made by the Town of Clayton.
- b. Violations. Any person violating this Ordinance may be prosecuted under Section 1.2-6.10 hereof.
- c. Town's Responsibility. In connecting any premises to Town water and/or sewer system, the Town of Clayton will extend service from the main to the edge of the public street, alley, way, or thoroughfare abutting the property to be connected

and will provide all labor and materials to install curb stop, sewer clean out, and road resurfacing.

- d. Connection and Repair Fees. All connection or “tapping” fees shall be paid in advance by the owner or occupant of the property to be connected according to the following schedule:

New Service	Connection Fee
Water Connection	\$500.00
Sewer Connection	\$500.00

Repairs to Existing Service	Repair Fees
Water or Sewer	Actual cost plus 10% on materials and equipment and 25% on labor on the customer's side of the Town's water curb stop or Town's sewer clean out.

1.2-6.4 Customer's Responsibilities

- a. It shall be the sole responsibility of all customers to the Town water and/or sewer systems to:
- (1) Maintain the water service line from the customer's side of the curb box and all spigots and other attachments on their property in good condition and free from leaks.
 - (2) Maintain the sewer lateral from the customer's side of the Town clean out in good condition and free from leaks.
 - (3) Prevent the deliberate discharge of storm and surface waters into the Town's sanitary sewer system.

1.2-6.5 Water Emergencies

- a. Stop Use Order. Whenever the Town Council determines upon reasonable basis that a threat to the Town's water supply exists, the Town Council may order all water customers of the Town to limit or stop the washing of automobiles, the sprinkling of streets, grass, trees, or other vegetation and such other non-essential water use activities as they deem appropriate under the circumstances. Persons violating a "stop use" order may be prosecuted under Section 1.2-6.10 of this Ordinance.
- b. Emergency Cut Off. In the event of a breakdown, emergency, or for any other unavoidable cause, the Town shall have the right to cut off the water supply to any or all customers on a temporary basis in order to make necessary repairs, connections, etc. In such event, the Town shall not be liable for any damage or inconvenience suffered by any customer or for any claim for interruption of service, lessening of supply, inadequate pressure, poor water quality, or the like.

1.2-6.6 Water and Sewer Rates

- a. Rates. Water and sewer rates shall be set by the Town in December of each year to be effective at the beginning of the next year.
- b. Billing Due Date; Late Payment Penalty; Disconnection for Non-Payment; Reconnection.
 - (1) Water and sewer bills will be prepared and submitted by the Town on a monthly basis and shall be due 20 days after the bill is sent.
 - (2) Late Payment Penalty. When any bill is not paid in full by its due date, a late payment penalty shall be imposed of \$15.00 per month until the entire amount (including accrued late payment penalties) is paid in full.
 - (3) If not paid by the due date, the Town may under Section 1.2-6.7 disconnect the service.

- (4) If disconnected for non-payment or for non-compliance with any rules or regulations of the Town pertaining to water and sewer service, no water service shall be reconnected until all past due amounts are paid in full and the reconnection fee required under Section 1.2-6.8 is paid in advance.

c. Advance Payment Required for Customers Receiving Water and/or Sewer Service Outside Town Limits.

- (1) Whenever the Town elects to extend water and/or sewer service to serve properties outside the Town limits, the Town shall require in advance prior to connection of such service an advance payment from such customer in an amount estimated to equal 150% of that customer's reasonably estimated average bill for such service(s) but in no event less than \$10.00. The amount of such cash advance payment may be increased by the Town or reduced at the request of the customer based upon actual billings for the first three (3) consecutive months.
- (2) The Town shall not require advance payment from customers receiving water and/or sewer service outside Town limits as of the effective date thereof unless such customer has a history of delinquent payments for service previously received. In any case where an existing customer outside the Town limits is not required to provide advance payment because of a satisfactory payment history with the Town, the Town may subsequently require such advance payment if future delinquencies indicate such advance payment is appropriate.

1.2-6.7 Disconnection

- a. Reasons for Disconnection. Water service to any customer may be disconnected by the Town under the following circumstances.

- (1) At the customer's request.

- (2) For failure to pay in full any water and/or sewer bill within twenty (20) days from the due date of the billing.
- (3) Upon discovery of plumbing facilities or sanitary sewer facilities on the customer's premises which are in such poor condition (leak or otherwise) as to pose a risk to the health, safety, or welfare of occupants or other persons of the Town; or if un-metered which causes undue loss of water through leaking.

1.2-6.8 Disconnection Procedure; Reconnection Procedure

Except where disconnection is at the customer's prior written request, no water service shall be disconnected by the Town unless the following procedures are substantially complied with:

- a. Written notice shall be sent to the customer at the customer's last address as provided to the Town office by such customer regular mail (or at the Town's option, by personal delivery). Delivery shall be deemed complete upon depositing such letter, postage prepaid, in the U.S. Mail (or if personally delivered, handing it to an adult person on the customer's premises). Such notice shall state:
 - (1) The Town's intent to disconnect service;
 - (2) The reason(s) for such disconnection;
 - (3) The amount of any past due charges;
 - (4) That disconnection will occur within a specified number of days not less than five (5) from the date such notice was mailed or delivered; and
 - (5) That the customer may appeal the disconnection to the Town Council during normal business hours.
- b. Appeals to the Town Council can be made in person, in writing, or by telephone and no formal procedure shall be required. The Town Council shall give the customer an opportunity to be heard concerning why service should not be

disconnected and may as appropriate deny the appeal, postpone the disconnection for a stated period, or cancel the disconnection notice.

- c. In the event the problem (including payment in full of any past due amount) has not been corrected within the time stated in the notice provided under Section 1.2-6.8(a) and the Town Council has not approved any appeal from the customer, the Town may disconnect service at any time after the time stated in the written notice.

d. Charges.

(1) Disconnection Fees:

- (i) Where service is disconnected at the customer's request, \$15.00 during normal business hours.
- (ii) Where service is disconnected other than at the customer's request, \$15.00.

(2) Reconnection Fees:

- (i) Fifteen dollars (\$15.00) during normal business hours. Forty dollars (\$40.00) after normal business hours at the customer's request.
- (ii) All reconnection fees must be paid in advance.

1.2-6.9 Damages, Obstructions, Interference with Town Water and Sewer Systems

- a. No person shall damage, obstruct, or in any manner interfere with any part of the Town's water and/or sewer, not permit any refuse or other substance tending to obstruct or damage any part of said systems to get into same.

1.2-6.10 Penalties

- a. Person Defined. For purposes of this Ordinance, the word "person" shall mean and include any natural person, partnership, corporation, firm, association, or other legal entity.

- b. Penalties. Upon conviction before any court of competent jurisdiction, persons violating this Ordinance shall forfeit and pay \$50.00 for the first offense and \$100.00 for any subsequent offense. Each day of a continuing violation shall constitute a separate offense except as provided in 1.2-6.10(c).
- c. Grace Period After Conviction for First Offense of Section 1.2-6.2. Where any person is convicted of violating Section 1.2-6.2 of this Ordinance, no prosecution for a second or any subsequent offense shall be brought sooner than 15 days after the date of such decision and, if an appeal be taken, then not less than 15 days after such appeal is finally decided.

1.2-6.11 Separability, Savings Clause; Conflicting Ordinances

- a. Any and all Ordinances of the Town, or sections or parts thereof, contradictory hereto, superseded hereby, or in conflict with any provision of the Ordinance are hereby repealed to the extent of such inconsistency.
- b. Should any section, paragraph, sentence, clause, or other provision of the Ordinance be declared illegal, the remainder hereof shall remain in full force and effect.

1.2-6.12 Violations Declared Nuisances, Injunctive Relief

- a. Any violation of this Ordinance which poses a threat to the public health, safety, or welfare of the Town of Clayton or the State of Delaware is hereby declared to be a public nuisance; and in addition to prosecution for violation of any penal section of this Ordinance, the Town of Clayton may seek appropriate injunctive relief in any court of competent jurisdiction.

<p style="text-align: center;">SECTION 1.2-7 Ordinance Adopting the Water Meter Connection and Enforcement Thereof within the Town of Clayton</p>
--

1.2-7.1 Water Meter Installation

- a. Every property connected to the Town of Clayton water system, whether within or outside the municipal limits of the Town of Clayton, shall have a water meter. All residential meters and accessories thereto shall be purchased at no cost from the Town. It shall be the responsibility of the property owner to purchase and have installed all meters and accessories. All locations and installations shall be inspected and approved by the Town Foreman or his/her designee.
- b. Every residential dwelling unit shall be served by individual water meters.
- c. Every business unit shall be served by an individual water meter. Commercial meters shall be purchased from an approved manufacturer and installed at the customer's expense. A list of approved manufacturers will be available at the Town Office.
- d. Town Approval. The location and installation of all water meters shall be subject to approval by the Town Foreman or his/her designee appointed by the Mayor.
- e. Large Service. Any water service requiring a larger than one inch line shall be by "compound" meter and shall provide "by-pass" capability.
- f. Right to Inspect. The Town Foreman, the Mayor, and any member of the Town Council or any agent or employee of the Town of Clayton "for that purpose" shall have the right to inspect any premises within the Town of Clayton if connected to Town water or any premises outside the Town limits if connected to Town water. Any residential or business unit accepting service shall have authorized the inspection during regular business hours.
- g. Penalties for Refusal to Permit Inspection. Should any owners or occupant unreasonably refuse, under the circumstances, to permit inspection of their premises by any person duly authorized to do so, the Town of Clayton may:

- (1) Disconnect water service to the premises upon notice to the owner or occupant who may demand, in writing, an appeal to the Town Council, which appeal shall stay disconnected until a decision is made by the Town Council.
 - (2) Prosecute the owner or occupant for unreasonably denying the right of inspection to persons authorized to do so.
 - (3) Seek injunctive relief in any court of appropriate jurisdiction for an order made prohibiting the owner or occupant from refusing the requested inspection.
- h. Accessibility. Meters and remote recording devices shall be installed in a space so that they are at all times accessible for reading, repair, and inspection.

1.2-7.2 Compliance with Procedures Pertaining to Inaccessible Meters

- a. Warning Letter. Where the Town Foreman determines that any water meter or remote water meter recording device is “inaccessible” because of any fence, locked door, locked gate, dog, or other impediment that interferes with ready access by authorized Town employees, the Town Foreman or his/her designee shall send a registered letter to the customer which shall specify the reason that such a meter has been determined inaccessible, giving the customer not less than fourteen (14) calendar days to correct the problem; and warning the customer that if the problem is subsequently encountered by authorized Town employees, a fee of \$25.00 will be imposed for each unsuccessful attempt to gain access to the meter by authorized Town employees. The billing notice shall be accompanied by a written explanation of the customer’s appeal rights.
- b. Customers may appeal the assessment of any accessibility fee to the Town Foreman in person, in writing, or by telephone within five (5) working days of their receipt of the billing statement and no formal procedure shall be required. The Town Foreman shall give the customer an opportunity to be heard concerning

why the fee should be imposed and may, as appropriate, deny the appeal, postpone the imposition of the fee, or cancel the fee. The Town Foreman shall provide the customer with a written statement of this decision.

- c. Any customer may appeal the Town Foreman's decision to the Town Council by filing a written appeal within five (5) calendar days of the Town Foreman's decision. Such appeals shall be scheduled for the next Town Council meeting following the filing of the appeal. The customer must appear before the Town Council. The Town Council may affirm, reverse, or modify the decision of the Town Foreman on the basis of information provided at such hearing.

1.2-7.3 Relocation of Meter / Disconnection

- a. Whenever in any 12-month period it becomes necessary to charge a customer two (2) or more inaccessibility fees, the Town Foreman may order the customer to relocate the water meter or remote water meter recorder to a location specifically approved by the Town Foreman. Such order shall be in writing, sent certified mail return receipt requested to the customer at his/her last known address as shown by the Town's billing records or personally delivered to the customer or adult resident at the customer's address by the Town employee. Such order shall specify: (1) a date not less than fourteen (14) calendar days from the date of such order's delivery by which the meter must be relocated; (2) that the customer should contact the Town Foreman to identify an approval location for the meter; and (3) that failure to comply with the relocation order by the date specified may result in disconnection of water service.
- b. In the event any customer fails to comply with an order for relocation of the water meter, the Town may proceed to disconnect water service to the customer unless the customer appeals the notice of disconnection to the Town Foreman. The Town Foreman shall notify the customer of his/her decision in writing and afford the customer an opportunity to appeal that decision to the Town Council prior to

disconnection of service. Any appeal to the Town Council shall be in writing and filed with the Senior Clerk within five (5) working days of the customer's receipt of the Town Foreman's decision. Such appeal shall be scheduled for the next Town Council meeting following the filing of the appeal. The customer must appear before the Town Council. The Town Council may affirm, reverse, or modify the decision of the Town Foreman on the basis of the information presented at such hearing.

1.2-7.4 Disconnection / Reconnection Procedure

- a. Reasons for Disconnection. Water service to any customer may be disconnected by the Town under the following circumstances:
- (1) At the customer's written request.
 - (2) For failure to pay, in full, any water bill and other charges within 20 days of the date of the billing.
 - (3) Upon discovery of plumbing facilities or sanitary sewer facilities on the customer's premises which are in such poor conditions, leak, or otherwise as to pose a risk to the health, safety, or welfare of occupants or other persons of the Town; or if un-metered, which cause undue loss of water through leaking.
 - (4) For tampering with the water meter or otherwise intentionally damaging or interfering with the Town's water facility.
 - (5) Failure to have an approved water meter installed by August 1, 1995.
 - (6) Failure to comply with an order for relocation of water meter as specified by the Town Foreman.

1.2-7.5 Emergency Disconnect

The Town may disconnect any water service due to any unforeseen emergency or natural disaster.

- a. Disconnection Procedure. Except where disconnection is at the customer's prior written request, no water service shall be disconnected by the Town unless written notice is sent to the customer at the customer's last known address provided to the Town Office by such customer, regular mail, or at the Town's option by person delivery. Delivery shall be deemed complete upon depositing such letter/notice, postage prepaid, in the U.S. mail; or if personally delivered, handing it to an adult person on the customer's premises. Such notice shall state:
 - (1) The Town's intent to disconnect service.
 - (2) The reason/reasons for such disconnection.
 - (3) The amount of any past due charges.
 - (4) That the disconnection will occur within a specified number of days not less than five (5) working days from the date such notice was mailed.
 - (5) That the customer may appeal the disconnection to the Town Council during normal business hours.
- b. Appeals to the Town Council can be made in person, in writing, or by telephone during normal business hours and no formal procedure shall be required. The Town Council shall give the customer an opportunity to be heard concerning why the service should not be disconnected and may deny the appeal, postpone the disconnection for a stated period of time, or cancel the disconnection service.
- c. In the event the problem, including payment in full of any past due amount, has not been corrected within the time period stated in this Ordinance and the Town Council has not approved any appeal from the customer, the Town may disconnect service at any time after the time stated in the written notice.

d. Disconnection and Reconnection Fees

Disconnection:

- (1) Where service is disconnected at the customer's request, \$15.00 during normal business hours.
- (2) Where service is disconnected other than at the customer's request, \$25.00.

Reconnection:

- (3) Where service is reconnected at the customer's request, \$15.00 during normal business hours.
- (4) Where service is reconnected other than at the customer's request, \$25.00.
- (5) Where service is reconnected at the customer's request after normal business hours until 7:00 p.m., \$40.00.
- (6) Where service is reconnected at the customer's request after normal business hours after 7:00 p.m., \$70.00.
- (7) All reconnection fees and past due fees MUST be paid in advance.

e. Emergency Disconnection and Reconnection Fees. The Town shall reserve the right to waive all disconnect and reconnection fees.

f. Billing. Water bills will be prepared and submitted by the Town on a monthly basis. Water bills shall be due within twenty (20) days of the date of billing. When any bill is not paid in full by its due date, a late payment penalty shall be imposed in the amount of \$15.00 or 1-1/2% per month or any portion thereof on the unpaid balance, whichever is greater, until the entire amount is paid in full.

g. Malfunctioning Water Meters, Repair, or Replacement. The cost to repair or, if necessary, replace any meter found to be damaged or malfunctioning from causes other than normal use shall be borne by the customer. The cost to repair

or, if necessary, to replace any water meter found to be malfunctioning because of inherent defect, normal wear and tear, and the like shall be borne by the Town.

- h. Estimated Usage for Period of Malfunction. During any period of time that it is demonstrated that a water meter has been malfunctioning for any reason, water usage shall be estimated by using the average water consumption for the immediate preceding nine (9) months prior to such period of malfunction; and, if less than nine (9) months, then the average for the number of months prior to usage then available.
- i. Meter Pits. Where conditions make it impractical to place a water meter within a building, it shall be installed in a meter pit approved by the Town with a remote recording device located outside the pit area. If feasible, the remote recording device shall be attached to a metal stand-off stake to accommodate readily available readings and inspections. Pit installations shall have the water meter installed in a yoke with the register not more than 12 inches nor less than 6 inches below the finished grade.
- j. Availability of the Town Foreman. The Town Foreman or his/her designee will be available for normal business hours from Monday through Friday from 7:00 a.m. until noon and from 12:30 p.m. until 3:30 p.m.
- k. Definitions.
 - (1) Property Owner shall mean any person, firm, group of persons, association, corporation, or any said person or entity reflected on the Town of Clayton tax rolls. The "responsible party" having an ownership interest or possession of any lot or parcel of land ("the property").
 - (2) Residential Dwelling Unit shall mean all single- or multiple-family dwelling, each apartment in an apartment building, townhouse, manufactured home, or any other dwelling as authorized by the Town of Clayton Zoning Ordinance.

- (3) Business Unit shall mean any commercial firm, corporation, association, individual, or group of individuals organized or not organized under any legal entity to conduct business to be served by the Town of Clayton.

SECTION 1.2-8
Ordinance to Prohibit the Use or Construction of
Private Wells within the Town of Clayton

1.2-8.1 It is hereby expressly prohibited for any individual, owner, or occupant of premises within the Town of Clayton to use or construct a well for private or public use within the Town of Clayton or outside the Town of Clayton where a Town water main is available for connection to said property.

1.2-8.2 Any person found to be in violation of this Ordinance shall be fined \$100.00 for the first offense and \$200.00 for each subsequent offense.

<p style="text-align: center;">SECTION 1.2-9 Conservation and Rationing of Water and Penalties for Violation</p>
--

1.2-9.1 Whenever in times of extreme heat, dryness, conflagration, or other emergency as determined by the President/Mayor of the Town of Clayton, water rationing may be imposed.

1.2-9.2 The President/Mayor of the Town Council, hereafter referred to as the Mayor, shall have the authority to declare a water emergency exists due to the shortage of water available for customers in the Town for the reasons set forth in Section 1.2-9.1 above. It is required that rationing be placed into effect at once, and it is further required that rationing of water remains in effect until further order of the Town Council.

1.2-9.3 The following water conservation stages shall be in effect at the following times. Total water consumption per day shall be determined by totaling all the water pumped by the entire Town water system. When Stage 2, Stage 3, or Stage 4 water rationing is in effect, no person, firm, or corporation shall use any water in violation of any provision of this Ordinance.

a. Stage 1 – Voluntary Water Conservation. Conservation shall be in effect whenever the Mayor declares that the water supply or the capacity of the waterworks system to deliver water is approaching levels at which water rationing will be required to preserve the ability of the Town to deliver a necessary amount of water to each water user and to supply emergency needs such as fire prevention. Procedures for Stage 1 shall be as follows:

- (1) The Mayor will make public announcements in the news media that Stage 1 voluntary water conservation is in effect. The announcements will include a description of the provisions in effect.
- (2) Persons will be urged to conserve water in every way possible in their homes and in their businesses.

- (3) People will be urged to avoid sprinkling their lawns and avoid water gardens, shrubs, or trees with a hose unless the lawn, garden, shrubs, or plants need the water to avoid damage and at any rate not oftener than every second day for not more than four (4) hours a day. People will be urged to avoid washing vehicles.

b. Stage 2 – Water Rationing. Stage 2 water rationing will be in effect whenever total consumption for the preceding day was 175,000 gallons or more. Procedures for Stage 2 shall be as follows:

- (1) The Mayor will make public announcements in the news media that Stage 2 water rationing is in effect. The announcement will include a description of the provisions in effect.
- (2) Persons will be urged to conserve water in every way possible in their homes and in their businesses.
- (3) No person shall use water to sprinkle a lawn or use water through a hose to water any gardens, trees, or shrubs except between the hours of 6:00 p.m. and 10:00 p.m. or between the hours of 6:00 a.m. and 10:00 a.m. of any day on which sprinkling is permitted. Sprinkling shall be permitted on even numbered calendar days at locations with even numbered addresses and on odd numbered calendar days at locations with odd numbered addresses. These restrictions shall apply to all residences and to all businesses and institutions having lawns, gardens, trees, or shrubs and shall be followed at all parks and public buildings owned by the Town. These restrictions shall not apply to any person, firm, or corporation engaged in the business of growing or selling plants of any kind.
- (4) No water shall be used from a hose to wash vehicles except at places of business where vehicles are washed on every business day either with

attendants, with automatic equipment, or by self service. Any person may wash a vehicle with water from a bucket.

- (5) No swimming pools shall be filled. Swimming pools that were filled before Stage 2 water conservation went into effect may have water added to make up losses through evaporation or splashing. Water lost through draining or through leaks in the pool may not be made up during Stage 2 water rationing.

c. Stage 3 - Water Rationing. Procedures for Stage 3 shall be as follows:

- (1) The Mayor will make public announcements that Stage 3 water rationing is in effect. The announcement will include a description of the restrictions.
- (2) Persons will be urged to conserve water in every way possible in their homes and in their businesses.
- (3) No person shall use any water to sprinkle any lawn or use water to sprinkle any garden, tree, or shrub except between the hours of 6:00 p.m. and 10:00 p.m. or between the hours of 6:00 a.m. and 10:00 a.m. of any day on which the sprinkling is permitted. Sprinkling will be permitted on Mondays at all locations having even numbered addresses and on Thursdays at all locations having odd numbered addresses. These restrictions shall apply to all residences and to all businesses and institutions having lawns, gardens, trees, or shrubs and shall be followed at all parks and public buildings owned by the Town. These restrictions shall not apply to any person, firm, or corporation engaged in the business of growing or selling plants of any kind.
- (4) No water shall be used from a hose to wash vehicles except at places of business where vehicles are washed on every business day either with attendants, with automatic equipment, or by self service.

- (5) No swimming pools will be filled and no water shall be added to any swimming pool.

d. Stage 4 - Water Rationing. Stage 4 water rationing shall be in effect whenever restrictions beyond Stage 3 water rationing are necessary so that no water customer inside the Town limits will be without water. The Mayor shall impose Stage 4 water rationing when in his opinion such restrictions are required under the terms of this paragraph, provided that the Town Council will consider the action of the Mayor at the next meeting at which time matter may be considered, and the Town Council may continue the Stage 4 in effect, continue it in effect with changes, or discontinue Stage 4 water rationing. Procedures for Stage 4 shall be as follows:

- (1) The Mayor will make public announcements through the news media that Stage 4 water rationing is in effect. The announcement will include a description of the provisions in effect.
- (2) Persons will be urged to conserve water in every way possible in their homes and in their businesses.
- (3) No water will be used for sprinkling lawns and no water will be used from a hose to water any garden, trees, or shrubs. These restrictions will not apply to any person, firm, or corporation engaged in the business of growing or selling plants of any kind.
- (4) No water shall be used from a hose to wash vehicles except at places of business where vehicles are washed on every business day either with attendants, with automatic equipment, or by self service.
- (5) No swimming pools will be filled and no water shall be added to any swimming pool.
- (6) It is the policy of the Town to keep Stage 4 in effect for no longer than absolutely necessary. The Mayor and Town Council shall take steps to lift the Stage 4 restrictions as soon as lifting the restrictions will not result

in any water user inside the Town limits being unable to get water. Furthermore, the Town Council must be satisfied that the ability of the Town to deliver uninterrupted water services will not be jeopardized by lifting the restrictions.

1.2-9.4 Responsibility

No person shall be convicted of violating this Ordinance unless such person in fact turned on water, directed the turning on of water, or kept water turned on after learning it was turned on in violation of this Ordinance, or failed to turn off automatic devices capable of turning on water in violation of this Ordinance. It will not be necessary however to present a witness who saw the accused turning on the water if the circumstances indicated the accused did turn on the water.

1.2-9.5 Reports and Review of Rationing

The Mayor will make reports to the Town Council at least once a week while water rationing is in effect. The Town Council will review the reports and consider any changes that may be desirable in the regulations set out in this Ordinance.

1.2-9.6 Explanations

The Mayor will from time to time send an explanation of the regulations set out in this Ordinance.

1.2-9.7 Penalty

Any person, firm, or corporation violating any provision of this Ordinance shall be fined not less than \$50.00 nor more than \$100.00 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

SECTION 1.3-1
Requirements for Installation and Repair of
Sidewalks within the Town of Clayton

1.3-1.1 Any owner of property abutting, adjacent to, or forming a part of any public street and upon which property a new structure is to be built shall install, at their own expense, and pursuant to specification set by the Council of the Town of Clayton or the Town Foreman or his/her designee, sidewalks, curbs, or gutters (hereinafter referred to as "sidewalks") pursuant to regulations adopted by the Town of Clayton as set forth herein and such other regulation adopted by the Town of Clayton.

1.3-1.2 The Council of the Town of Clayton shall determine which particular street or streets, or a portion thereof, shall require sidewalks, or upon petition of a majority of persons owning property along any of the streets, or a portion of any of the streets of the said Town of Clayton, may direct the property owner or owners to lay or replace sidewalks with such material or materials as, in the judgment of the Council of the Town of Clayton, may seem best under the circumstances.

1.3-1.3 The Council of the Town of Clayton shall, at the time that it determines that the condition(s) of an existing sidewalk requires improvement, direct the property owner or owners to improve the sidewalks with such material or materials as, in the judgment of the Council of the Town of Clayton, may be appropriate. The property owners are responsible for improving their sidewalks within ninety (90) days after notification by the Town through the Town Foreman.

1.3-1.4 Upon failure of the owner to install or improve said sidewalks within ninety (90) days stipulated in Section 1.3-1.3 above, the Town of Clayton may install or improve them as needed and assess the cost thereof to the owner payable by the owner according to the following options:

- a. The owner shall agree in writing to payment in full within ninety (90) days with no interest incurred; or
- b. The owner shall in writing elect the two (2) year repayment schedule based on nine (9) percent simple interest assessed monthly at $\frac{3}{4}$ to 1 percent per month on the unpaid balance. (Interest rates may fluctuate as deemed necessary by the Council of the Town of Clayton to cover the cost of records maintenance associated with repayments); or
- c. The owner shall in writing elect the three (3) year repayment schedule based on 12 percent simple interest assessed monthly at 1 percent per month on the unpaid balance.

1.3-1.5 Should the owner or owners of the property who have been directed to either repair or install sidewalks within the Town of Clayton refuse or otherwise fail to do so or pay for such improvements or repairs under Section 1.3-1.4 above and should the Town Council determine that such refusal is without justification, then a lien shall be assessed against the property provided that the owner or owners of the property shall be accorded an opportunity to be heard.

1.3-1.6 All sidewalks shall be constructed pursuant to the provisions of this Ordinance and pursuant to the regulations and specifications set forth herein and titled "Construction – Structures and Masonry Concrete Gutter & Combination Curb & Gutter" and shall be no less than four (4) feet in width and shall be installed with a grade to permit drainage to the street and comply with all other requirements of the Town of Clayton or the Town Foreman or his/her designee.

1.3-1.7 All sidewalks shall be completed according to the Town of Clayton's regulations and specifications as set forth in Section 1.3-1.6 above. These specifications may be updated as necessary and shall be available to all property owners.

<p style="text-align: center;">SECTION 1.3-2 Snow Emergency Route and Snow Removal</p>
--

1.3-2.1 It shall be unlawful to park a vehicle or permit any vehicle to remain parked during any snowfall exceeding one hour in duration on any street designated as a snow emergency route by resolution of the Town Council.

- a. Any vehicle parked on the aforesaid street after a snowfall of one hour duration shall, after an unsuccessful attempt by the police department to locate the owner or operator thereof, be removed or towed away to a storage area designated by the police department or by any person authorized by the police department to do so at the expense of the owner thereof, such expenses to be paid prior to release of vehicle in addition to any fine or costs.

1.3-2.2 It shall be unlawful for the owner of any premises in the Town, in front of or by the side of which shall be a sidewalk, pavement, or walkway, to permit or allow snow to remain thereon for a longer period than 48 hours after it has ceased snowing.

- a. An owner or renter who shall permit or suffer same to remain on said sidewalks, pavement, or walkways shall be guilty of an ordinance violation of Section 1.3-2.2.
- b. The Mayor of the Town of Clayton or his/her agent shall have the authority to have snow removed from the sidewalk, pavement, or walkway of the premises of any owner or occupant in violation of this section and such owner or occupant shall pay in addition to the penal fine herein provided, the cost of such removal of snow.

1.3-2.3 It shall be unlawful for any resident of the Town of Clayton to throw or pile snow into any roadway or intersection within the Town limits of Clayton so as to cause any visual or physical obstruction therein.

1.3-2.4 It shall be the duty of the police department of the Town to patrol the streets of the Town and to issue warrants or summons in connection with the violation of the provisions of this Section. Any violation of this Section shall be punishable by a fine of \$50.00 for the first offense and \$100.00 for each subsequent offense.

SECTION 2.1-1
Ordinance Regarding Tobacco Use within the Town of
Clayton's Buildings and Automobiles

2.1-1.1 Because the use of tobacco products, either cigarettes, cigars, pipes, and/or smokeless varieties, has been determined to be a significant cause of absenteeism, illness, and death, offensive to non-smokers, and because the Town of Clayton is committed to the concept of "wellness" and providing a healthful working environment and pleasant facilities for our staff, an ordinance regarding tobacco use is hereby established.

2.1-1.2 Tobacco use shall not be permitted in any offices, conferences, meetings, seminars, training classes, or any other group gatherings in Town facilities or sponsored by the Town in any other facility except in designated smoking areas.

2.1-1.3 Tobacco use shall be prohibited in all Town vehicles.

2.1-1.4 A designated smoking area shall be established by the Town Mayor and/or the Town Foreman for the Town garage and other employee areas.

2.1-1.5 Beginning on the effective date of this Ordinance, each office affected by this Ordinance shall develop and promulgate the policies necessary to ensure compliance including posting signs and giving appropriate notice of the existence of this Ordinance and its application to the particular building.

2.1-1.6 No employee or applicant for employment shall be discriminated against as a result of his or her smoking habits outside of the workplace or in designated smoking areas. However, all employees are expected to obey the rules promulgated pursuant to this Ordinance. Employees who violate this Ordinance shall be appropriately counseled. Repeated flagrant violations shall be cause for discipline pursuant to the appropriate personnel standards.

<p style="text-align: center;">SECTION 2.2-1 Slaughter Houses and Poultry Dressing Plants</p>

2.2-1.1 It shall be unlawful to build, construct, or maintain within the limits of the Town of Clayton a slaughter house for the purpose of slaughtering cattle, sheep, swine, calves, or any other animals or to build, construct, or maintain within the limits of the Town of Clayton a poultry dressing plant for the purpose of slaughtering and dressing poultry of all kinds or to build, construct, or maintain within the limits of the Town of Clayton any factory or building for the purpose of carrying on any business of any kind or nature which shall produce any offensive or obnoxious odors or which shall be injurious to public health.

2.2-1.2 Any person, firm, or corporation violating the provisions hereof shall be guilty of a nuisance and upon conviction thereof shall pay a fine of \$100.00. Each day's violation shall be considered a separate offense.

<p style="text-align: center;">SECTION 2.2-2 Handling and Disposition of Garbage, Trash and Rubbish</p>

2.2-2.1 It shall be in violation of this Ordinance for any person or persons to throw, place, or deposit any trash, garbage, rubbish, ashes, refuse, or other foreign substance(s) upon a sidewalk, crosswalk, avenue, street, lane, alley, park, or other public place within the Town or upon any property owned by the Town except as provided in Section 2.2-2.5(d) hereof.

2.2-2.2 Concerning the handling and disposition of garbage, trash, and rubbish the following rules and regulations shall apply:

- a. The owner or occupier of a garbage collection unit shall place all trash and rubbish along the curb in front of such lot or other designated areas in order that it may be conveniently removed by the collector thereof by 7:00 a.m.
- b. All trash and rubbish shall be contained in individual containers and each of a capacity not exceeding 35 gallons or 50 pounds in weight. The containers shall have tight fitting lids. Alternatively, owners or occupiers of a garbage collection unit may use plastic trash liners which are tightly secured having capacity not to exceed 35 gallons or 50 pounds in weight. Any trash or rubbish which has not been properly placed in containers as provided by this Ordinance shall not be accepted by the collectors and it shall be the duty of the person responsible to immediately remove the loose trash and rubbish from the curb. At no time will trash and rubbish be placed in cardboard boxes, paper, or plastic bags on the curb for collection. All such bags shall be placed in proper containers as described in this section.
- c. All trash, rubbish, or garbage containers shall be placed on the curb line or edge of pavement not earlier than 7:00 p.m. proceeding the day of collection. All empty trash, rubbish, or garbage containers shall be removed by the owner by 7:00 a.m. on the date after the collection is scheduled.

- d. No person shall dispose of any garbage by throwing or placing it upon any lot within the confines of the Town including buildings or vehicles.
- e. All public waste containers placed by the municipal corporation along any of the avenues, streets, alleys, and sidewalks of the Town shall be used by the members of the general public as the place or places of disposal of waste paper and material accumulated by members of the general public, aforesaid, while using the public ways of the Town, aforesaid, to this end, no person engaged in business either as owner, manager, operator, employers, or other capacity and no person residing in any dwelling either as owner, tenant, employee, or guest shall dispose of or place any garbage, trash, or rubbish in any public waste container of the Town.
- f. No person shall put, place, or throw any garbage, trash, or rubbish collected or gathered from outside the Town limits of Clayton or any premises not paying or garbage collection on any lot or premises in the Town of Clayton.
- g. Construction material and automotive parts are not considered household garbage and will not be collected.
- h. For extra items such as appliances and rubbish from attics, garages, and basements residents must contact the Town Office during the regular hours (8:00 a.m. to noon and 1:00 p.m. to 4:30 p.m.) to arrange for special collection. The fee for collection of extra items shall be determined by the company providing garbage collection service to the Town of Clayton.
- i. No garbage shall accumulate more than seven (7) days. Any garbage allowed to accumulate more than seven (7) days will not be collected.
- j. Bulk items such as cardboard, carpet, newspaper, etc. must be bundled and tied for collection. Igloos are available and encouraged for many of these items. Refrigerators shall have the doors and chlorofluorocarbons (CFCs) removed and a certificate of removal from a certified CFC recovery technician must be provided.

2.2-2.3 Definitions

Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

- a. Town Council shall mean the group of elected officials acting as governing body for the Town of Clayton.
- b. Person shall mean an individual, group of persons, firm, company, association, society, corporation, or any person or entity reflected on the tax rolls.
- c. Shall is mandatory; May is permissible.
- d. Garbage Collection Units shall include any lot or dwelling intended for farm, commercial, or residential use.

2.2-2.4 Yard and Garden Collection

- a. Yard waste will be collected on Monday and Thursday.
- b. Yard waste will not be collected with normal garbage collection.
- c. No trash or garbage will be permitted in yard waste.
- d. All grass clippings must be in individual containers with lids with a capacity not exceeding 50 pounds or 35 gallons.
- e. Only limbs from normal trimming by homeowner will be collected.

2.2-2.5 Fees

- a. There shall be assessed against each and every dwelling unit in the Town of Clayton a trash collection fee as determined by the Town Council subject to periodic adjustment by Council. The trash fee is to be assessed in equal monthly installments to be billed in connection with the utility bill submitted to each person or business receiving such services. The charges herein fixed shall be payable and billed monthly on the first day of each month.

- b. For commercial garbage, collection unit fees shall be set by the Town Foreman with approval by the Town Council.
- c. This section does not apply to the following uses:
 - (1) Churches
 - (2) Senior Centers
 - (3) Fire Department
 - (4) VFW
 - (5) Use by any person, business, or other organization which has a dumpster or other commercial container for the exclusive pick up of garbage, trash, and rubbish that is picked up by another entity. If such person, business, or other organization puts garbage, trash, or rubbish out for pick up by the Town of Clayton, said entity will be charged in accordance with the provisions of this Ordinance. Such entity must notify the Town Office within thirty (30) days of such use.
 - (6) Any person, business, or other organization which heretofore has been offered the service of garbage collection within the last six (6) months.
 - (7) Any commercial collection units with over twelve (12) containers shall require a commercial hauler licensed by the Delaware Solid Waste Authority.
- d. Upon failure to pay the aforementioned trash assessment, the Municipal Clerk shall notify the owner of the real estate underlying the delinquent unit of such delinquency; and for so long as the assessment shall remain unpaid, a lien shall attach to the real estate underlying the delinquent unit.

2.2-2-6 Any person violating any provision of this Ordinance will be subject to a fine of \$50.00 for the first offense and \$100.00 for each subsequent offense.

2.2-2.7 Severability

If any of the provisions of this Ordinance or of the application of any provision thereof shall be held invalid, such invalidity shall not affect the remainder of said Ordinance it being the intention of this Council that such remainder shall be and remain in full force and effect.

<p style="text-align: center;">SECTION 2.2-3 Ordinance Concerning the Control of Vegetation</p>

2.2-3.1 It shall be in violation of this Ordinance for any person, groups of persons, firm, association, or corporation or any such person or entity reflected on the Town of Clayton tax rolls ("the responsible party") having an ownership interest or possession of any lot or parcel of land ("the property") with or without improvements to permit any grass, weeds, or any other vegetation whatsoever other than edible vegetation, trees, and flowers to grow higher than 12 inches from the ground.

2.2-3.2 The Town Foreman or his/her designee of the Town of Clayton shall inspect the property to determine whether the property is in violation of the Ordinance. Upon finding a violation, he shall give a minimum of five (5) days written notice to any of the above identified entities referred to in Section 2.2-3.1 informing that person or entity that the Town of Clayton shall proceed, without further notice, to mow and control the growth of grass, weeds, and other vegetation on the property and assess all costs against the responsible party. Such written notice shall be provided once each calendar year and shall not be rescinded unless a subsequent inspection by the Town Foreman reveals that the responsible party will control the height of the grass, weeds, and other vegetation on the property. The notice must be rescinded in writing and will only be done so upon request by the responsible party. The costs thereof, together with any fines, shall constitute a claim against the owner or owners of said property and may be collected the same as any other fine or costs as collected within the Town of Clayton.

2.2-3.3 Any responsible party in violation of the provisions of this Ordinance shall be charged with a violation and shall be fined \$50.00 for the first offense, \$100.00 for each day thereafter defined as a subsequent offense, together with costs, without the necessity of a separate citation or summons issued by the Town of Clayton.

2.2-3.4 There shall be a minimum cost to be assessed against the responsible party by the Town of Clayton for the mowing and control of grass, weeds, or other vegetation on the property and that charge shall be \$75.00 per hour with a minimum charge of \$100.00.

SECTION 2.2-4
Depositing of Grass Clippings or Other Lawn and Garden
Material in the Streets, Alleys and Sidewalks

2.2-4.1 It is hereby declared to be unlawful for any person, firm, association, or corporation to deposit, place, discard, drop or in any other manner scatter any grass clippings, leaves, branches or other lawn, garden, or tree waste in or upon the streets, curbs, sidewalks, or alleys of the Town of Clayton except as permitted under Section 2.2-4.2 of this Ordinance.

2.2-4.2

- a. Grass clippings, leaves, and garden clippings shall be put in a separate plastic container (unbagged) no larger than 35 gallons. Containers should be set out at the appropriate street or alley line with other trash for collection. Branches and tree limbs shall be placed together in bundles and placed at the appropriate street or alley line for trash collection.
- b. Unbagged leaves may be deposited in the streets of the Town near the curb in such a manner as directed by the Town Foreman at such times of the year as specified in public notices by the Town Office contemporaneously with the beginning and ending of such time periods.
- c. Nothing in the Ordinance shall be construed as prohibiting the temporary scattering of grass clippings, leaves, or the like on Town streets, curbs, alleys, or sidewalks where the same occurs incidental to and during mowing, raking, or clipping operations; but the same shall thereafter be removed and corrected immediately at the conclusion of such operations.

2.2-4.3 Any person violating any provision of this Ordinance will be subject to a fine of \$50.00 for the first offense and \$100.00 for any subsequent offense.

2.2-4.4 This Ordinance makes it clear that all grass clippings, leaves, and garden clippings shall be put in a separate plastic container no larger than 35 gallons for the Town Crew to pick up. Containers should be set out at the appropriate street or alley line for collection.

<p style="text-align: center;">SECTION 2.2-5 Ordinance Regulating the Keeping of Pets within the Town of Clayton</p>
--

2.2-5.1 Definitions

Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

- a. Town Council shall mean the group of elected officials acting as governing body for the Town of Clayton.
- b. Person shall mean an individual, firm, company, association, society, corporation, or group.
- c. Shall is mandatory; May is permissible.
- d. Pet shall mean any domesticated or tamed animal that is kept and cared for by a person.
- e. At Large shall mean off of the premises of the person or owner and not under the control by leash, cord, chain, rope, or otherwise.
- f. Owner shall mean any person or persons, firm, association, or corporation owning, keeping, or harboring a pet.

2.2-5.2 It shall be unlawful for any person to maintain, keep, control or bring within the Town of Clayton any animal which is not a household pet, as defined in the Town of Clayton Zoning Ordinance Section 6.4-4.5, unless otherwise specifically authorized by the Mayor and Council of the Town of Clayton.

2.2-5.3 Any person having a pet within the Town of Clayton must properly maintain the pet and shall not permit that pet to become a public nuisance nor when grouped with one or more pets of the same species or different species shall permit said pets from becoming a public nuisance within the Town of Clayton.

2.2-5.4 Keeping of Pets within Town Limits

The following rules and regulations shall apply to the handling and care of pets within the Town of Clayton:

- a. No owner of any dog shall permit any dog owned or maintained by him to run at large within the corporate limits of the Town of Clayton.
- b. Any person who is the owner, custodian, or otherwise has control of any dog within the Town of Clayton shall, at all times each day, either:
 1. Confine the dog within an enclosure from which it cannot escape; or
 2. Firmly secure the dog by means of a collar, chain, or invisible fence so that the dog cannot stray from the premises where it is kept or secured. All invisible fences must be clearly marked on the premises.
 3. Firmly secure the dog by a leash whenever it is off the premises so that the dog cannot stray from the owner or custodian's control and the owner or custodian shall carry and use a bag or other device to pick up and remove any excrement from the dog.

2.2-5.5 Any person harboring a pet not in compliance with this Ordinance or any section or subsections of this Ordinance shall, upon conviction thereof, before any court of competent jurisdiction be subject to a fine of \$50.00 for the first offense and \$100.00 for each subsequent offense.

2.2-5.6 Severability

If any of the provisions of this Ordinance or the application of any provision thereof shall be held invalid, such invalidity shall not affect the remainder of said Ordinance it being the intention of Town Council that such remainder shall be and remain in full force and effect.

<p style="text-align: center;">SECTION 2.2-6 Ordinance Concerning the Keeping of Dogs</p>

2.2-6.1 Definitions of Terms

- a. Vicious Dog is hereby defined to be any dog that attacks or bites any person in any public or private place. A vicious dog is hereby declared to be a public nuisance and detrimental to the public health and welfare.
- b. Noisy Dog is hereby defined to be any dog that by frequent, habitual, or continued noise disturbs any person or neighborhood. Any noisy dog is hereby declared to be a public nuisance and detrimental to the public health and welfare.
- c. Dog at Large is hereby defined to be any dog not on the premises of the owner and not under the control of a human being either by leash, cord, chain, rope, or otherwise.

2.2-6.2 It shall be unlawful for any person to keep any vicious dog within the Town of Clayton.

2.2-6.3 It shall be unlawful for any person to keep any noisy dog within the Town of Clayton.

2.2-6.4 It shall be unlawful for any person to permit any dog to run at large within the Town of Clayton at any time.

2.2-6.5 Any person who shall violate Section 2.2-6.2, 2.2-6.3, or 2.2-6.4 of this Ordinance shall be guilty of a misdemeanor and punishable by a fine of \$50.00 for the first offense and \$100.00 for each subsequent offense.

<p style="text-align: center;">SECTION 2.2-7 Ordinance Concerning the Keeping of Dangerous Animals within the Town of Clayton</p>
--

2.2-7.1 Definitions

- a. Dangerous Animals shall mean any mammal, amphibian, reptile, or arachnid that because of its size, nature, or other characteristic(s) would constitute a danger to human life or property if it escaped from secure quarters. Such animals shall include but not be limited to alligators, bears, boidae (constrictor snakes), caimans, crocodiles, felids, gavials, non-human primates, wolves, and any poisonous amphibian, reptile, or arachnid. The term shall not include any domestic cats or dogs.
- b. Person shall mean any owner, individual, household, family, partnership, or corporation.

2.2-7.2 Prohibition of Dangerous Animals

- a. It shall be unlawful for any person to be in possession of any dangerous animal(s) within the Town of Clayton. The purpose of this law is to protect the health, safety, and welfare of persons and property within the Town of Clayton.
- b. This provision shall not apply to a property/person legally constituted (permitted) such as a zoological park, licensed wildlife rehabilitator, licensed veterinarian, licensed pet store, bona fide educational or medical institution, animal shelter as defined by 7Del.C § 1701 or any traveling circus, carnival, or exhibit.

2.2-7.3 Any person in possession of a dangerous animal at the time this Ordinance is enacted must notify the Town Council of the Town of Clayton in writing within fifteen (15) days. If notice is provided to the Town Council of the Town of Clayton within fifteen (15) days after the enactment of this Ordinance, a hearing will be scheduled at the next regularly scheduled meeting of the Town Council. At this hearing the Town Council after

considering the health, safety, and welfare of the Town of Clayton may allow such person up to one (1) year to relocate such dangerous animal.

2.2-7.4 Enforcement

Violation of any provision of this Ordinance is a misdemeanor punishable by a fine of \$50.00 for the first offense and \$100.00 for each subsequent offense. Each dangerous animal possessed is a violation of this Ordinance and each day it is possessed shall constitute and be punishable as a separate offense. Any fine imposed for a violation of this Ordinance shall not be suspended to any amount less than the minimum prescribed fine.

SECTION 2.2-8 Public Nuisances

2.2-8.1 Purpose and Intent

The purpose and intent of this Ordinance is to establish an orderly procedure for the determination and abatement of public nuisances within the Town of Clayton.

2.2-8.2 Public Nuisance Defined

Public Nuisance shall mean any conduct or condition which endangers life, health, safety, or the general welfare of the Town of Clayton or any conduct or condition which obstructs the reasonable and comfortable use of any property, gives offense to the senses, or violates common decency including any particular conduct or condition which the Town Council of the Town of Clayton may by resolution determine to be unreasonable, unlawful, annoying, inconvenient, discomforting, or damaging to any person or property.

2.2-8.3 Public Nuisances Prohibited

It shall be unlawful for any person, firm, corporation, association, or any other entity to cause or allow to exist any public nuisance within the Town of Clayton. The Town of Clayton is hereby authorized to take appropriate action as set forth herein for the determination and abatement of any public nuisance.

2.2-8.4 Determination of Public Nuisance Notice

The Town Council of the Town of Clayton may, upon the complaint of any resident of the Town of Clayton or upon its own motion, determine by resolution that any particular conduct or condition constitutes a public nuisance as defined by this Ordinance. Upon determination that any particular conduct or condition constitutes a public nuisance as defined by this Ordinance, the Town Council of the Town of Clayton shall give written notice (delivered in person or via certified mail) to the person, firm, corporation, association, or other entity causing or allowing such public nuisance to exist. Notice shall specify:

- a. The conduct or condition constituting the public nuisance, and a statement that such conduct or condition has been determined to constitute a public nuisance which violates this Ordinance;
- b. The action deemed necessary to remove or correct the conduct or condition constituting the public nuisance, and a statement that such action must be completed within thirty (30) days from the receipt of said notice;
- c. The action, if any, which the Town of Clayton may take upon failure to remove or correct the conduct or condition constituting the public nuisance; and
- d. The penalties which may be imposed for violations of this Ordinance. Such notice shall be presumed received upon personal delivery or upon the date such notice was deposited in the U.S. mail. The fact that such notice is not actually received shall not be a defense to enforcement of this Ordinance.

2.2-8.5 Opportunity for Public Hearing

Any person, firm, corporation, association, or other entity which receives any notice given pursuant to Section 2.2-8.4 of this Ordinance may request, in writing and within fifteen (15) days of receipt of said notice, a public hearing before the Town Council of the Town of Clayton in order to show cause, if any, why the Town of Clayton should not proceed, pursuant to Section 2.2-8.6 of this Ordinance, with abatement of the conduct or condition deemed to constitute a public nuisance.

If a public hearing is properly and timely requested pursuant to this section, the Town of Clayton shall not take any abatement action pursuant to this Ordinance until such a public hearing has been held. Such public hearing may be conducted at the next regularly scheduled meeting of the Town Council of the Town of Clayton, or sooner if necessary, but in any event shall be conducted on later than sixty (60) days from the date upon which the Town of Clayton receives the written request for said hearing.

If after said public hearing the Town Council of the Town of Clayton determines that the Town of Clayton should not proceed pursuant to Section 2.2-8.6 of this Ordinance with abatement of the conduct or condition deemed to constitute a public nuisance, then the Town of Clayton shall take no abatement action pursuant to this Ordinance. If after said public hearing however the Town Council of the Town of Clayton determines that the Town of Clayton should proceed pursuant to Section 2.2-8.6 of this Ordinance with abatement of the conduct or condition deemed to constitute a public nuisance, then the Town of Clayton may proceed pursuant to Section 2.2-8.6 of this Ordinance with abatement of the conduct or condition deemed to constitute a public nuisance provided, nevertheless, that no abatement action shall commence any sooner than thirty (30) days after receipt of the notice required by Section 2.2-8.4 of this Ordinance.

If a public hearing is not properly and timely requested pursuant to this section, then the Town of Clayton may proceed pursuant to Section 2.2-8.6 of this Ordinance with abatement of the conduct or condition deemed to constitute a public nuisance.

2.2-8.6 Procedure for Abatement of Public Nuisance

If any person, firm, corporation, association, or any other entity shall refuse or fail to remove or correct any conduct or condition constituting a public nuisance within thirty (30) days from the receipt of any notice given pursuant to Section 2.2-8.4 of this Ordinance, then the Town of Clayton may take whatever action is appropriate and reasonably necessary to abate such public nuisance including but not limited to the physical removal or correction of said conduct or condition; and the Town of Clayton or its designated agent is hereby authorized to enter upon any private property within the Town of Clayton without warrant to accomplish this purpose. Any and all costs or expenses incurred by the Town of Clayton shall be assessed against the property harboring the public nuisance; and any such costs or expenses so incurred shall constitute a lien against said property which shall be collectible in the same manner as real property taxes within the Town of Clayton.

2.2-8.7 Other Remedies

In lieu of or in addition to the aforesaid procedure for the abatement of any public nuisance, the Town of Clayton may file a civil action for injunctive relief to enjoin any violation of this Ordinance or any appropriate civil or criminal action for enforcement of the penalty provided in Section 2.2-8.8 of this Ordinance, or both, in any court of competent jurisdiction.

2.2-8.8 Penalty for Violations

Any person, firm, corporation, association, or other entity violating the provisions of this Ordinance may be sued or prosecuted before any court of competent jurisdiction; and upon judgment or conviction shall be liable for, forfeit, or pay a penalty or fine to the Town of Clayton in the amount of \$50.00 for the first violation and \$100.00 for each subsequent violation. Each and every day that such violation occurs or continues shall constitute and be punishable as a separate offense.

2.2-8.9 Severability

If any provision of this Ordinance or any application of this Ordinance to any particular entity or circumstance shall be deemed invalid, such invalidity shall not affect any other provision or application of this Ordinance which may otherwise be given effect and to this end the provisions of this Ordinance are hereby declared to be severable.

SECTION 2.3-1 Open Burnings
--

2.3-1.1 It shall be unlawful for any person(s), entity, or corporation to openly burn within the Town limits any materials of any kind.

2.3-1.2 Any person(s), members of any entity, officers of any corporation, or the agents or employees of any person(s), entity or corporation convicted of a violation shall be fined not less than \$50.00 for the first offense and \$100.00 for each subsequent offense.

<p style="text-align: center;">SECTION 2.3-2 Structure Constituting Health or Fire Hazards</p>
--

2.3-2.1 It shall be unlawful for any person, firm, or corporation to construct or maintain within the Town of Clayton any building, house, or structure which is a health menace because of inadequate water or sewage facilities or any other reason which the Town Council deems to be a menace to the public health.

2.3-2.2 It shall be unlawful for any person, firm, or corporation to maintain within the Town of Clayton any building, house, or structures which shall be deemed a public nuisance by the Town Council because off overcrowding among the inhabitants of the building, house, or structure.

2.3-2.3 It shall be unlawful for any person, firm, or corporation to construct or maintain within the Town of Clayton any building, house, or structure which because of the physical condition of such building, house, or structure shall be deemed by the Town Council unsafe or a menace to public health or a fire hazard.

2.3-2.4 The Mayor and Town Council of the Town of Clayton shall have the authority to order the abatement of the conditions which they deem to be the cause of the nuisance, or of the menace to the health of the Town or of the fire hazard, or to order such building, house, or structure to be removed or razed.

2.3-2.5 Any person, firm, or corporation violating the provisions of this Ordinance or orders of the Town Council made under this Ordinance shall upon conviction be fined \$50.00 for the first offense and \$100.00 for each subsequent offense. Each day of a continuing violation constitutes a separate offense.

SECTION 2.3-3 Dangerous Buildings
--

2.3-3.1 Dangerous Buildings Defined

All buildings or structures which have any or all of the following defects shall be deemed "dangerous buildings":

- a. Those whose interior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
- b. Those which, exclusive to the foundation, show a 33% or more of damage or deterioration of the supporting member or members or 50% of damage or deterioration of the non-supporting enclosing or outside wall covering.
- c. Those which have improperly distributed loads upon the floors or roofs in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used.
- d. Those which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the Town of Clayton.
- e. Those which have become or are so dilapidated, decayed, unsafe, unsanitary, or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease so as to work injury to the health, morals, safety, or general welfare of those living therein.
- f. Those having light, air, and sanitation facilities which are inadequate to protect the health, morals, safety, or general welfare of those living therein.
- g. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communication.
- h. Those which have parts thereof which are so attached that they may fall and injure members of the public or property.

- i. Those which because of their condition are unsafe, unsanitary, or dangerous to the health, morals, safety, or general welfare of the people of this Town.
- j. Those buildings existing in violation of any provision of the building code of this Town, Kent County, any provision of the fire prevention code, or other Ordinances of this Town.

2.3-3.2 Standard for Repair, Vacation and Demolition

The following standards shall be followed in substance by the Town Foreman in ordering repair, vacation, or demolition:

- a. If the “dangerous building” can reasonably be repaired so that it will no longer exist in violation of the terms of this Ordinance, it shall be ordered repaired.
- b. If the “dangerous building” is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants, it shall be ordered to be vacated.
- c. If any case where a “dangerous building” is 50% damaged, decayed, or deteriorated from its original value or structure, it shall be demolished; and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this Ordinance, it shall be demolished. In all cases where a “dangerous building” is a fire hazard existing or erected in violation of the terms of this Ordinance or any Ordinance of the Town or statute of the State of Delaware, it shall be demolished.

2.3-3.3 Dangerous Buildings – Nuisances

All “dangerous buildings” within the terms of Section 2.3-3.1 of this Ordinance are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as hereinbefore and hereafter provided.

2.3-3.4 Duties of the Town Foreman

The Town Foreman shall:

- a. Inspect or cause to be inspected annually all public buildings, schools, halls, churches, theaters, hotels, tenements, commercial, manufacturing, or other buildings open for public business for the purpose of determining whether any conditions exist which render such places to be a “dangerous building” within the terms of Section 2.3-3.1 of this Ordinance.
- b. Inspect or cause to be inspected any building, wall, or structure about which complaints are filed by any person to the effect that a building, wall, or structure is or may be existing in violation of this Ordinance.
- c. Inspect or cause to be inspected any building, wall, or structure reported (as hereinafter provided for) by the Fire or Police Departments of this Town as probably existing in violation of the terms of this Ordinance.
- d. Inspect or cause to be inspected such other buildings as shall from time to time come to this attention as possible “dangerous buildings” within the terms of Section 2.3-3.1.
- e. Notify in writing the owner, occupant, lessee, mortgagee, agent, and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of Kent County of any building found by him to be a “dangerous building” within the standards set forth in Section 2.3-3.1 of this Ordinance that:
 - (1) The owner must vacate, repair, or demolish said building in accordance with the terms of the notice and this Ordinance.
 - (2) The occupant or lessee must vacate the building in accordance with the terms of the notice and not remain in possession.
 - (3) The mortgagee, agent, or other persons having an interest in said building as shown by the land records of the Recorder of Deeds of Kent County may at his own risk repair, vacate, or demolish said building or

have such work or act done provided that any person notified under this subsection to repair, vacate, or demolish any building shall be given such reasonable time not exceeding thirty (30) days as may be necessary to do, or have done, the work or act required by the notice provided for herein.

- f. Set forth in the notice required in subsection (e) hereof, a description of the building or structure deemed unsafe, a statement of the particulars which make the building or structure a “dangerous building”, and an order requiring the same to be put in such condition as to comply with the terms of this Ordinance within such length of time not exceeding thirty (30) days as is reasonable.
- g. Report to the Council any non-compliance with the “notice” provided for in subsection (e) and (f) hereof.
- h. Appear at all hearings conducted by the Council and testify as to the condition of “dangerous buildings”.
- i. Place a notice on all “dangerous buildings” reading as follows:
 - (i) This building has been found to be a dangerous building by the Town foreman. This notice is to remain on the building until it is repaired, vacated, or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee, or agent of this building and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of Kent County. It is unlawful to remove this notice until notice is complied with.

2.3-3.5 Hearing Before Council

The Council of the Town of Clayton shall:

- a. Upon receipt of a report of the Town Foreman as provided for in Section 2.3-3.4(g) hereof give written notice to the owner, occupant, mortgagee, lessee, agent, and all other persons having an interest in said building as shown by the records of the Recorder of Deeds of Kent County to appear before it on the date specified in the notice to show cause why the building or structure reported to be “dangerous building” should not be repaired, vacated, or demolished in

accordance with the statement of particulars set forth in the Town Foreman's notice provided for herein in Section 2.3-3.4(f).

- b. Hold a hearing and hear such testimony as the Town Foreman or the owner, occupant, mortgagee, lessee, or any other person having an interest in said building as shown by the land records of the Recorder of Deeds of Kent County shall offer relative to the "dangerous building".
- c. Make written findings of fact from the testimony offered pursuant to subsection (b) as to whether or not the building in question is a "dangerous building" within the terms of Section 2.3-3.1 hereof.
- d. Issue an order based upon findings of fact made pursuant to subsection (c) commanding the owner, occupant, mortgagee, lessee, agent, and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of Kent County to repair, vacate, or demolish any building found to be a "dangerous building" within the terms of this Ordinance setting the time within which said building shall be repaired, vacated, or demolished and provided that any person so identified, except the owners, shall have the privilege of either vacating or repairing said "dangerous building" or any person not the owner of said "dangerous building" but having an interest in said building as shown by the land records of the Recorder of Deeds of Kent County may demolish said "dangerous building" at his own risk to prevent the acquiring of a lien against the land upon which said "dangerous building" stands by the Town as provided in subsection (c) hereof.
- e. If the owner, occupant, mortgagee, or lessee fails to comply with the order provided for in subsection (d) hereof within ten (10) days, the Council shall cause such building or structure to be repaired, vacated, or demolished as the facts may warrant under the standards hereinbefore provided for in Section 2.3-3.2 of this Ordinance and shall with the assistance of the Town Attorney cause the costs of such repair, vacation, or demolition to be charged against the land on

which the building exists as a municipal lien, cause such costs to be added to the property tax as an additional assessment, to be levied as a special tax against the land upon which the building stands or did stand, or to be recovered in a suit at law against the owner provided that in cases where such procedure is desirable and any delay thereby caused will not be dangerous to the health, morals, safety, or general welfare of the people of this Town. The Council shall notify the Town Attorney to take legal action to force the owner to make all necessary repairs to demolish the building.

- f. Report to the Town Attorney the names of all persons not complying with the order provided for in subsection (d) hereof.

2.3-3.6 Violations / Penalty for Disregarding Notices or Orders

The owner of any “dangerous building” who shall fail to comply with any notice or order to repair, vacate, or demolish said building given by the Council shall be fined \$50.00 for the first offense and \$100.00 for each subsequent offense.

The occupant or lessee in possession who fails to comply with any notice to vacate or who fails to repair said building in accordance with any notice given by the Council as provided for in this Ordinance shall be fined \$50.00 for the first offense and \$100.00 for each subsequent offense.

Any person removing the notice provided for in Section 2.3-3.4(i) hereof shall be fined \$50.00 for the first offense and \$100.00 for each subsequent offense.

2.3-3.7 Duties of the Town Attorney

The Town Attorney shall:

- a. Prosecute all persons failing to comply with the terms of the order provided for in Section 2.3-3.5(d).
- b. Appear at all hearings before the Council in regard to “dangerous buildings”.

- c. Bring suit to collect all municipal liens, assessments, or costs incurred in repairing or causing to be vacated or demolished “dangerous buildings”.
- d. Take such other legal action as is necessary to carry out the terms and provisions of this Ordinance.

2.3-3.8 Emergency Cases

In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless a “dangerous building” as defined herein is immediately repaired, vacated, or demolished, the Town Foreman shall report such facts to the Council which may cause the immediate repair, vacation, or demolition of such “dangerous building”. The costs of such emergency repair, vacation, or demolition of such “dangerous building” shall be collected in the same manner as provided in Section 2.3-3.5(e) hereof.

2.3-3.9 Where Owner is Absent from the Town

In cases except emergency cases where the owner, occupant, lessee, or mortgagee is absent from the Town, all notices or orders provided for herein shall be sent by registered mail to the owner, occupant, mortgagee, lessee, and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of Kent County to the last known address of each; and a copy of such notice shall be posted in a conspicuous place on the “dangerous building” to which it relates. Such mailing and posting shall be deemed adequate service.

2.3-3.10 Administrative Liability

No officer, agent, or employee of the Town of Clayton shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Ordinance. Any suit brought against any officer, agent, or employee of the Town of Clayton as a result of any act required or permitted in the discharge of his duties under this Ordinance shall be defended by the Town Attorney until the final determination of the proceedings herein.

2.3-3.11 Duties of Fire Marshall, Member of the Fire Department, Police Department, and other Town Employees

The Fire Marshall, all members of the Fire Department, all Officers of the Police Department, and all other employees of the Town of Clayton shall report in writing to the Town Foreman all buildings or structures within the Town of Clayton which shall come to their knowledge or attention as being “dangerous buildings” within the terms of this Ordinance.

2.3-3.12 Separability

It is the intention of the Town Council that each separate provision of this Ordinance shall be deemed independent of all other provisions herein; and it is further the intention of the Town Council that if any provision of this Ordinance be declared invalid, all other provisions thereof shall remain valid and enforceable.

SECTION 2.3-4 Explosives

2.3-4.1 It shall be unlawful for any person(s), entity, or corporation to load, unload, store, keep, convey, transport, or manufacture any explosives of any nature whatsoever except dynamite, bullets, or shotgun shells within the limits of the Town of Clayton without the express written permission of the Town Council.

2.3-4.2 Any person(s), members of any entity or officers of any corporation, or the agents or employees of any person(s), entity, or corporation convicted of a violation shall be fined not less than \$50.00 for the first offense and \$100.00 for each subsequent offense.

SECTION 2.3-5 Spills of Motor Vehicle Fluids

2.3-5.1 Purpose

The Town Council hereby finds that the discharge or escape of many motor vehicle fluids, including but not limited to motor oil, gasoline, antifreeze and transmission fluid, upon the public streets, alleys, sidewalks or other rights-of-way within the Town, constitutes a public nuisance and a potential safety hazard as well as causing deterioration and damage to the Town road surfaces. It is therefore the purpose of this Ordinance to prohibit the intentional discharge or continued escape of such fluids from motor vehicles within the Town on such public streets, alley, sidewalks and public rights-of-way.

2.3-5.2 Discharge or Escape of Certain Motor Vehicle Fluids Prohibited

The intentional discharge or continued escape of motor oil, gasoline, antifreeze, transmission fluid or other motor vehicle fluids derived from petroleum products onto the public street, alleys, sidewalks or other public rights-of-way within the Town is hereby prohibited.

2.3-5.3 Intentional Discharge

Any person who consciously, intentionally discharges any of the aforesaid prohibited fluids from a motor vehicle onto the public streets, alleys, sidewalks or other public rights-of-way of the Town shall be guilty of violating this Ordinance.

2.3-5.4 Escape of Fluids

Warning; Presumption of Intent: Where the continued escape (leaking, dripping, etc.) of any prohibited fluids from a motor vehicle upon the Town streets, alleys, sidewalks or other public rights-of-way is evident either from direct observation of such escape from the motor vehicle or from the residue of such fluids upon the public streets, alleys,

sidewalks or other public rights-of-way, written notice thereof shall be posted upon the motor vehicle and/or mailed to the registered owner of such vehicle by certified mail/return receipt requested. Such notice shall indicate:

- a. Description of the vehicle, including the license number, if available;
- b. The date, time and place such fluids were observed having escaped from such vehicle;
- c. Warning that the continued escape of such fluids constitutes a violation of this Ordinance;
- d. The maximum penalty for a violation of this Ordinance;
- e. Notice that if such fluids are again observed escaping from such vehicle in violation of this Ordinance at any time following the expiration of 72 hours from the posting of such vehicle, or from the receipt of the written notice, if mailed, that the owner and/or operator of such vehicle shall be presumed to have intentionally allowed the escape of such fluids in violation of this Ordinance and shall be subject to prosecution for a violation thereof. In any such prosecution, the presumption created hereunder shall be rebuttable in nature and the Defendant shall have the opportunity to rebut said presumption by presenting evidence that the continued escape of such fluids occurring after the posting of the motor vehicle, or the receipt of written notice was not the result of Defendant's intentional disregard of such notice and warning.

2.3-5.5 Occasional Spills not a Violation

Inasmuch as the purpose of this Ordinance is to prohibit the discharge or escape of such fluids as would constitute a public nuisance, safety hazard and/or cause damage or deterioration to the street surfaces, the escape of occasional droplets of such fluids from motor vehicle in such small quantities as would not form a puddle or stain upon the surface below its exceeding two inches in diameter, shall not be deemed a violation of this Ordinance.

2.3-5.6 Expiration of Warning Notice; Change in Ownership

Any warning notice posted or mailed under this Ordinance shall be effective only for a period of six months from the date of such posting or receipt. Upon the expiration of such six month period, or in the event of a good faith, arms-length sale or change of ownership of such motor vehicle, such warning notice shall cease to have any force or effect and a new notice shall be posted or mailed prior to any enforcement action under this Ordinance.

2.3-5.7 Penalty

Any person found guilty of violating this Ordinance shall, upon conviction, be fined \$25.00 for the first offense; \$50.00 for the second offense; and \$100.00 for a third and each subsequent offense plus the cost of prosecution.

2.3-5.8 Effective Date

This Ordinance shall become effective its adoption by the Town Council of the Town of Clayton. Adopted this 24th day of May, 2010.

<p style="text-align: center;">SECTION 3.1-1 Police Enforcement of the Laws of the State of Delaware</p>
--

3.1-1.1 That pursuant to the act or re-incorporate the Town of Clayton, effective July 27, 1988, the Town of Clayton Police Department is hereby authorized and ordered to enforce the laws of the State of Delaware as may be found under all Titles of the Delaware Code.

SECTION 3.2-1
**Making, Creating, or Permitting of Unreasonably Loud,
Disturbing, or Unnecessary Noise Prohibited**

3.2-1.1 The Town Council finds and determines that the people of the Town of Clayton are entitled to and should be insured an environment free from noise which unnecessarily degrades the quality of life and disturbs the common tranquility; that the levels of noise often reach such a degree as to endanger the health, safety, welfare, jeopardize the value of property, and erode the integrity of the local government.

3.2-1.2 The making, creation, or permitting of any unreasonably loud, disturbing, and unnecessary noise within the corporate limits of the Town is hereby prohibited.

3.2-1.3 The making, creation, or permitting of any noise of such character, intensity, or duration as to be detrimental to the life, health, or welfare of any individual or which either disturbs, injures, or endangers the comfort, repose, peace, or safety of any individual is hereby prohibited.

3.2-1.4 The following acts among others are declared to be unreasonably loud, disturbing, and unnecessary noises in violation of this section but said enumeration shall not be deemed to be exclusive namely:

- a. Blowing Horns. The sounding of any horn or signal device on any automobile, motorcycle, bus, or other vehicle except as a danger signal so as to create any unreasonably loud or harsh sound or the sounding of such device for any unnecessary and unreasonable period of time.
- b. Radios, Phonographs, Tape Recorders, etc. The playing of any radio, phonograph, tape recorder, or any musical instrument in such a manner or with such volume, particularly during the hours between 11:00 p.m. and 7:00 a.m. as to annoy or disturb the quiet, comfort, or repose of any person in any dwelling,

hotel, or other type of residence or between the hours of 9:00 a.m. and 6:00 p.m. to annoy or disturb the peace and quiet of pedestrians on the public streets and sidewalks of the Town.

- c. Pets. The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort and repose of any person in the vicinity.
- d. Use of Vehicle. The use of any automobile, truck, motorcycle, motorbike, moped, motor scooter, "dirt bike", or other self-propelled vehicle whether licensed and registered to operate on the public highways of this State or not so designed, loaded, out of repair, or operated in such a manner as to create unreasonably loud and unnecessary grating, grinding, rattling, or other noise.
- e. Blowing Whistles. The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of danger.
- f. Loudspeakers or Amplifiers. The use of mechanical loud speakers or amplifiers whether stationary or mounted on a vehicle for advertising or other purposes. Provided that in the exercise of free speech, loud speakers or amplifiers may be used for non-commercial purposes under the following conditions:
 - (1) It shall be unlawful to speak into a loud speaker or amplifier within the corporate limits of Town between the hours of 10:00 p.m. and 7:00 a.m.
 - (2) It shall be unlawful for any person to speak into a loudspeaker or amplifier within the corporate limits of the Town when such loud speaker or amplifier is so adjusted that the voice of the speaker is amplified to the extent that it is audible at a distance in excess of 150 feet from the person speaking.

3.2-1.5 Penalty

Any person, firm, association, partnership, corporation, or any group of individuals acting singly or in concert violating this Ordinance shall be guilty of a misdemeanor and shall forfeit and pay a fine of \$50.00 for the first offense and for each subsequent offense pay a fine of \$100.00.

SECTION 3.2-2 Disorderly Conduct

3.2-2.1 Definition

- a. Public Place shall mean any place to which the general public has access and a right to resort for business, entertainment, or other lawful purpose but does not necessarily mean a place devoted solely to the uses of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern, or other place of business and public grounds, areas, or parks.
- b. Riot shall mean a public disturbance involving:
 - (i) An act of violence by one or more persons part of an assemblage of three (3) or more persons which act or acts shall constitute a clear and present danger of, or shall result in, damage or injury to the property of any other person or to the person of any other individual; or
 - (ii) A threat or threats of the commission of an act or acts of violence of three (3) or more persons having, individually or collectively, the ability or immediate execution of such threat or threats where the performance of the threatened act or acts of violence would constitute a clear and present danger, or would result in, damage or injury to the property of any other person or to the person of any other individual.
- c. Incite a Riot shall mean, but is not limited to, urging or instigating other persons to riot but shall not be deemed to mean the mere oral or written:
 - (i) Advocacy of ideas or
 - (ii) Expression of belief not involving advocacy of any act or acts of violence or assertion of the rightness of or the right to commit any such act or acts.

3.2-2.2 A person shall be guilty of disorderly conduct if with the purpose of causing public danger, alarm, disorder, nuisance, or if his/her conduct is likely to cause public danger,

alarm, disorder, or nuisance, he/she willfully does any of the following acts in a public place:

- a. Commits an act in a violent and tumultuous manner toward another whereby that order is laced in danger of his/her life, limb, or health.
- b. Commits an act in a violent and tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged.
- c. Causes, provokes, or engages in any fight, brawl, or riotous conduct so as to endanger the life, limb, health, or property of another.
- d. Interferes with another's pursuit of a lawful occupation by acts of violence.
- e. Obstructs, either singly or together with other persons, the flow of vehicular or pedestrian traffic and refuses to clear such public way when ordered to do so by the city police or other lawful authority known to be such.
- f. Is in a public place under the influence of an intoxicating liquor or drug in such condition as to be unable to exercise care for his/her own safety or the safety of others.
- g. Resists or obstructs the performance of duties by Town police or any other authorized official of the Town when known to be such an official.
- h. Incites, attempts to incite, or is involved in attempting to incite a riot.
- i. Addresses abusive language or threats to any member of the Town police department, any other authorized official of the Town who is engaged in the lawful performance of his/her duties, or any other person when such words have a direct tendency to cause acts of violence. Words merely causing displeasure, annoyance, or resentment are not prohibited.
- j. Damages, befouls, or disturbs public property or the property of another so as to create a hazardous, unhealthy, or physically offensive condition.
- k. Makes or causes to be made any loud, boisterous, and unreasonable noise or disturbance to the annoyance of any other persons nearby or near to any public

highway, road, street, lane, alley, park, square, or common whereby the public peace is broke or disturbed or the traveling public annoyed.

- l. Fails to obey a lawful order to disperse by a police officer, when known to be such an official, where one or more persons are committing acts of disorderly conduct in the immediate vicinity and the public health and safety is imminently threatened.
- m. Uses abusive or obscene language or makes an obscene gesture.
- n. This section shall not be construed to suppress the right to lawful assembly, picketing, public speaking, or other lawful means of expressing public opinion not in contravention of other laws.

3.2-2.3 Enforcement

Any person, firm, or corporation violating the provisions of this Ordinance shall be punishable by a fine of \$50.00 for the first offense and \$100.00 for each subsequent offense.

<p style="text-align: center;">SECTION 3.2-3 Use of Vehicle, Public Street, or Public Place for Sleeping Quarters</p>

3.2-3.1 It shall be unlawful for any person to sleep in, occupy, or live in or otherwise be found using a motor vehicle for sleeping quarters on any public street or at any public place within the Town of Clayton. Violations of this section shall be punishable by a \$50.00 fine for the first offense and \$100.00 for each subsequent offense.

<p style="text-align: center;">SECTION 3.2-4 Houses of Prostitution</p>

3.2-4.1 It shall be unlawful for any person, firm, or corporation to operate or maintain within the limits of the Town of Clayton any house of prostitution or assignation.

3.2-4.2 Any person, firm, or corporation violating the provisions of this Ordinance shall be punishable by a fine of \$100.00 for the first offense and \$500.00 for each subsequent offense.

SECTION 3.2-5 Gambling Houses
--

3.2-5.1 It shall be unlawful for any person, firm, or corporation to maintain within the limits of the Town of Clayton any place or structure used for the purpose of gambling, illegal games of chance, or to carry on or to cause to be carried on within the limits of the Town of Clayton any gambling or illegal games of chance.

3.2-5.2 Any person, firm, or corporation violating the provisions of this Ordinance shall be punishable by a fine of \$100.00 for the first offense and \$500.00 for each subsequent offense.

SECTION 3.2-6 Curfew

3.2-6.1 It shall be unlawful for any child up to the age of 18 years to go or be upon any public street, alley, or other public place in the Town of Clayton after 10:00 p.m. unless such child is accompanied by a parent or other person having custody appointed by a court of appropriate jurisdiction of such minor.

3.2-6.2 It shall be unlawful for a parent or other person having legal custodial care of any child up to the age of 18 years to permit or allow such child to go or be upon any public street, alley, or other public place in the Town of Clayton after 10:00 p.m. unless such child is accompanied by a parent or other person having legal custody appointed by a court of appropriate jurisdiction of such minor.

3.2-6.3 Violations of Sections 3.2-6.1 or 3.2-6.2 of this Ordinance shall be punishable by a fine of \$50.00 for the first offense and \$100.00 for each subsequent offense.

SECTION 3.2-7 Disorderly Use of Premises

3.2-7.1 Definitions

For the purposes of this section, the following definitions shall apply and supersede any other conflicting definitions found in the Ordinances of the Town of Clayton.

- a. Premises. Shall mean a lot together with all buildings and structures thereon.
- b. Person(s) in Lawful Possession. Any owner of record or his/her representative, agent, or any lessee who is in legal possession of the premises.
- c. Occupant and/or User. Any person(s) occupying or present on the premises.

3.2-7.2 Prescribed Conduct for Occupants and/or Users

Any person occupying or present on a premises who by himself or in concert with other occupants and/or users causes public inconvenience, annoyance, or alarm to any other person or persons or who creates an unreasonable risk thereof by engaging in or causing any of the following conduct shall be violating this Ordinance:

- a. Engaging in fighting or in violent, tumultuous, or threatening behavior.
- b. Making, creating, or permitting any unreasonably loud, disturbing, or unnecessary noise or making, creating, or permitting any noise of such character, intensity, or duration as to be detrimental to the life, health, and welfare of any reasonable person(s) of normal sensitivities or which disturbs, injures, or endangers the comfort, repose, peace, or safety of any such individual. Excepted under this paragraph shall be normally operating mechanical equipment related to the premises, lawn care, and lawfully conforming construction equipment.
- c. Playing any television, radio, phonograph, tape deck, compact disk player, or musical instrument in such a manner or at such volume as to annoy or disturb the peace, quiet, comfort, repose, or the proper enjoyment of property of any reasonable person(s) of normal sensitivities in any other premises. The playing

of such device(s) in such a manner as to be plainly audible and unreasonably loud to a reasonable person(s) of normal sensitivities at a distance greater than 25 feet from the property line of the owner of record of said premises shall be prima facie evidence of the violation of this Ordinance.

- d. Yelling, shouting, or singing at such volume as to be plainly and disturbingly audible to the human ear outside the premises.
- e. Making any offensive, obscene, or profane utterance, gesture, or display to another person or persons in such a manner as is likely to provoke a violent or disorderly response.
- f. Obstruction or hindering the free and convenient passage of person(s) walking, riding, or driving over, along, or across any public way, sidewalk, pavement, street, or alley.
- g. Engaging in any act of indecent exposure or public display of an obscene act or gesture.
- h. Urinating in public view.
- i. Creating a hazardous or physically offensive condition which serves no legitimate purpose.
- j. Engaging in any conduct which would be a violation of Subchapter VII of Title 11 of the Delaware Code.

3.2-7.3 Prescribed Conduct: Person(s) in Lawful Possession

Any person(s) in lawful possession of a premises who by him/herself or in concert with other occupants and/or users causes public inconvenience, annoyance, or alarm to any other person(s) or who recklessly endangers the public health or safety of any person(s) upon the premises or recklessly endangers the public health and/or good order of the Town by engaging in or causing any of the following conduct shall be violating this Ordinance.

- a. Permitting any disturbing noise as may be generated by any gathering of person(s) and where such noise is of such intensity or duration as to be audibly

disturbing and endangers the comfort, repose, peace, or safety of any reasonable person(s) of normal sensitivities in any other premises. Such noise when plainly audible to a reasonable person of normal sensitivities at a distance greater than 50 feet from the property line of the owner of record of said premises shall be prima facie evidence of the violation of this Ordinance.

- b. Permitting any action which shall create a substantial risk of physical injury to other person(s) either directly or by the destruction of a structure which could collapse or fall into or otherwise injure person(s). For purposes of this paragraph, tumultuous actions and structural overcrowding of balconies, decks, stairs, porches, and interior spaces are examples of, but not limiting, actions which create substantial risk.

3.2-7.4 Prescribed Conduct for Person(s) in Lawful Possession

- a. Any person(s) who, after official notice as herein provided, allows, permits, or fails to take affirmative action to prevent subsequent violations in this Ordinance shall be deemed to be promoting the use of the premises for disorderly conduct and therefore shall be in violation of and subject to the penalties of this Ordinance.
- b. An owner or agent of record shall be presumed to have allowed, permitted, or failed to take affirmative action to prevent a subsequent violation of this Ordinance where a violation of subsection 3.2-7.2 and/or 3.2-7.3 of this Ordinance occurs after such has been provided official notice by the Town of Clayton Police Department or the Town Foreman of a previous violation for conduct prescribed by subsection 3.2-7.2 and/or 3.2-7.3 of this Ordinance.
- c. Official notice, as used herein, shall mean verbal or written notice to the owner or agent of record of conviction for conduct as prescribed by subsection 3.2-7.2 and/or 3.2-7.3 of this Ordinance. Such notice shall be provided by the Town of Clayton Police Department or Town Foreman within five (5) working days of such

conviction. If written notice is attempted, it shall be deemed effective by mailing to the owner or agent of record at his last known mailing address by certified mail, return receipt requested, with proper postage affixed. If such notice comes back undeliverable (except "refused"), the Town shall exercise reasonable efforts to provide actual notice by some other means.

3.2-7.5 Prescribed Conduct Lessors

- a. All written leases and agreements applying to residential property within the corporate limits of the Town of Clayton shall require that all parties had the opportunity to read this Ordinance.
- b. Any lease between the owner of record and/or his agent and any lessee(s) of any premises shall be terminated upon the second violation under this Ordinance of either the lessee(s) and/or any occupant(s) / user(s) of said premises.
- c. Any owner or agent acts knowingly and shall be in violation of this Ordinance if he permits lessee(s) to remain in possession of the premises after the occupant(s) / user(s) have twice been convicted under this Ordinance.

3.2-7.6 Adverse Possession

If any police officer who, while attendant upon a premises in official function of complaint, shall find no physical presence of any person in lawful possession of said premises, he may then proceed to issue appropriate criminal summons as allowed under Title 11 Delaware Code §821 for criminal trespass upon said premises by those persons therein. In such cases therefore he/she may:

- a. Remove those person(s) in and upon the premises.
- b. Establish and erect a police line on and about the property until such time as any person in lawful possession arrives and claims physical possession of the premises.

3.2-7.7 Penalty

- a. Any occupant and/or user found guilty of violating subsection 3.2-7.2 of this Ordinance shall be fined \$50.00 for the first offense and \$100.00 for each subsequent offense plus costs.
- b. Any person(s) in lawful possession found guilty of violating subsection 3.2-7.3 of this Ordinance shall be fined \$50.00 for the first offense and \$100.00 for each subsequent offense plus costs.
- c. Any person found guilty of violating subsection 3.2-7.4 of this Ordinance shall be fined \$50.00 for the first offense and \$100.00 for each subsequent offense plus costs.

SECTION 3.3-1 Traffic, Parking, and Vehicles

3.3-1.1 Stopping, Standing, or Parking in Specific Places

- a. No person shall stop, stand, or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic controlled device in any of the following places:
- (1) On a sidewalk.
 - (2) In front of a public or private driveway.
 - (3) Within 15 feet of a fire hydrant.
 - (4) On a crosswalk.
 - (5) Within 20 feet of a crosswalk at an intersection.
 - (6) Within 30 feet upon the approach to any flashing beacon, stop sign, or traffic control signal located at the side of the roadway.
 - (7) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance when properly sign posted.
 - (8) Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking a vehicle would obstruct traffic.
 - (9) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
 - (10) At any place where official signs prohibit stopping, standing, or parking.
 - (11) Within 50 feet of the nearest rail or railroad crossing unless a different length is indicated by traffic control devices.
 - (12) At any place where such parking, standing, or stopping obstructs the free passage of other traffic.
 - (13) Upon the roadway of any highway when it is practical to stop, stand, or park off the roadway.

(14) Whenever a curb is marked yellow or a yellow line is placed at the edge of a roadway or shoulder.

- b. No person shall move a vehicle not owned by such person into any area prohibited under subsection (a) of this section or away from a curb such as is unlawful.

3.3-1.2 Handicap Parking

- a. **Definitions.** The following words, terms, and phrases when used in this section shall have the meaning ascribed to them in this subsection except where the context clearly indicates a different meaning.

(1) "Vehicle" of the handicapped means a vehicle which is displaying a special handicapped registration plate on the rear of the vehicle issued pursuant to Title 21 Delaware Code §2134 (or any future corresponding provision of law), a vehicle displaying a special handicapped ID parking card in the windshield such ID card issued pursuant to Title 21 Delaware Code §2135 (or any future corresponding provision of law), or a plate or permit issued under a similar provision in another jurisdiction.

- b. **Prohibited Conduct.** No person shall park any vehicle other than a vehicle of the handicapped in any area under the control of and designated by the State Department of Transportation, by the Town, or by the owner(s) or lessee(s) of private property in the Town as a handicapped parking zone and conspicuously marked as such.

3.3-1.3 Parking in Fire Lanes

- a. **Prohibited Conduct.** No person shall stop, stand, or park a vehicle in any place which has been designated and properly identified as a fire lane pursuant to regulations of the State Fire Marshall or in an area designed for a fire hydrant or standpipe connection except in compliance with the directions of a police officer or traffic control device.
- b. **Enforcement by Towing.** Any police officer in the Town is hereby authorized to remove or cause to be removed and stored at the owner's expense any unattended vehicle left standing wholly or partially within a fire lane or any unattended vehicle left standing in a location so as to cause an obstruction to the accessibility to a fire lane, fire hydrant, or standpipe connection.

3.3-1.4 Positioning of Vehicle: Obedience of Markings

All vehicles are hereby required to be parked on the streets of the Town according to street markings designated for that purpose, and on the streets that are not marked all vehicles are required to park parallel to and not more than 12 inches from the curb to the right side of the street.

3.3-1.5 Parking of Trucks and Other Heavy Equipment

No person shall park or allow to remain parked any truck, mobile heavy construction equipment, or other vehicles licensed by this state or any other state as a commercial vehicle in excess of one (1) ton on any public street, road, alley, or way within the limits of Town except as provided in subsequent sections of this Ordinance. For purposes of this section, "park" shall mean to bring a vehicle to a stop and leave remaining in one (1) place in excess of five (5) minutes.

3.3-1.6 Parking Prohibited During Certain Hours

It shall be unlawful for any person to park or allow to remain parked any motor vehicle on the following streets on the days and hours provided below:

- a. **No Parking Wednesday 8:00 a.m. to 8:30 a.m.**
 - (1) Main Street – south side
- b. **No Parking Wednesday 8:00 a.m. to 11:00 a.m.**
 - (1) East Street – south side
 - (2) Highland Avenue – west side
 - (3) Washington Avenue – west side
 - (4) West Street – south side
 - (5) Wilson Avenue – west side
- c. **No Parking Wednesday 9:00 a.m. to 11:00 a.m.**
 - (1) Smyrna Avenue – south side
 - (2) Kirkwood Street – south side
 - (3) Reed Street – west side
 - (4) Rodney Street – west side
 - (5) Roth Circle – south side
- d. **No Parking Thursday 8:00 a.m. to 8:30 a.m.**
 - (1) Main Street – north side
- e. **No Parking Thursday 8:00 a.m. to 11:00 a.m.**
 - (1) Clayton Avenue – east side
 - (2) East Street – north side
 - (3) Highland Avenue – east side
 - (4) Washington Avenue – east side
 - (5) West Street – north side
- f. **No Parking Thursday 9:00 a.m. to 11:00 a.m.**
 - (1) Smyrna Avenue – north side
 - (2) Bassett Street – east side

- (3) Kirkwood Street – north side
- (4) Reed Street – east side
- (5) Rodney Street – east side
- (6) Roth Circle – north side

g. **Non-Restricted Streets – East Side**

- (1) Dickerson Street
- (2) Haslett Street
- (3) Industrial Boulevard

h. **Non-Restricted Streets – West Side**

- (1) Cardington Court
- (2) Coleman Street
- (3) Gander Drive
- (4) Holden Court
- (5) Hudson Street
- (6) Preston Lane

3.3-1.7 Parking Prohibited in Certain Areas at All Times

a. It shall be unlawful to park any vehicle at any time in the following areas:

- (1) Cherry Alley
- (2) Peach Alley
- (3) Apple Alley
- (4) Pear Alley
- (5) Plum Alley
- (6) State Alley
- (7) Church Alley
- (8) Apricot Alley

3.3-1.8 Time Designated Parking

No person shall park in any time designated parking space beyond the designated time.

3.3-1.9 Unattended Motor Vehicles

No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key, and effectively setting the brake thereon; and when standing upon any grade, turning the front wheels to the curb or side of the highway.

3.3-1.10 Summons for Unattended Vehicle; Owner Prima Facie Liable

- a. A summons in appropriate form to be adopted by the Town may be attached to an unattended vehicle found in violation of Section 3.3-1.9 by any police officer authorized arrest for violations of this Ordinance in lieu of arrest of the operator of such vehicle.
- b. If any vehicle found by such police officer to be in violation of Section 3.3-1.9 is unattended at the time the violation is discovered and the identity of the operator is not otherwise apparent, the person whose name such vehicle is registered as owner shall be held prima facie responsible for such violation.

3.3-1.11 Liability for Costs

The registered owner of a towed vehicle shall be responsible for payment in full of all removal and storage costs absent a decision by a magistrate that no probable cause existed for towing.

3.3-1.12 Disposition of Vehicles Following Payment of Costs

Subsequent to a decision by the magistrate that probable cause existed for towing or in the absence of a request for a hearing by the registered owner following proper notice, the Town police department shall release the vehicle to the registered owner or to a persona legally entitled

to its possession upon payment in full of all removal and storage costs and upon a showing of proof of ownership or proof of the right to possession of the vehicle.

3.3-1.13 Penalty and Fines

- a. Any person convicted of violating this Ordinance shall be deemed guilty of a violation, and upon conviction before any court of competent jurisdiction shall be penalized as follows:

- (1) First Offense \$10.00
- (2) Second Offense \$25.00
- (3) Third Offense \$50.00

For purposes of determining whether a violation of this Ordinance is a second, third, or subsequent offense, only violations occurring within 180 days immediately prior to the violation in question and resulting in convictions will be counted.

Each day that a violation of this Ordinance or any provision thereof continues shall be considered as a separate offense and penalties shall be imposed accordingly.

3.3-1.14 Scope / Enforcement

The parking regulations in this Ordinance shall be in full force and effect at all times, and the Town's police department is authorized and empowered to install any necessary signs or symbols clearly setting forth the areas mentioned in this section as a no parking zone.

<p style="text-align: center;">SECTION 3.3-2 Obstruction of Streets by Train at Crossing</p>
--

3.3-2.1 It shall be unlawful for any person, firm, or corporation to operate, place, or leave or permit the presence of a railroad train of any description or any engine, tender, car, or any other part of a railroad train in such a manner as to block, obstruct, or render unsafe the crossing of the railroad right-of-way and/or track by any pedestrian or any vehicle desiring to make use of the sidewalks and/or of the roadbed of the street for the purpose of crossing the right-of-way and/or tracks of any railroad within the corporate limits of the Town of Clayton, Kent County, and State of Delaware for a longer period of time than five (5) minutes at any one time; and further that at least five (5) minutes shall elapse between each of two (2) such periods during which it shall be unlawful for the sidewalks and/or roadbeds to be obstructed except in the case of a reasonable emergency when this Ordinance shall not apply.

3.3-2.2 It shall be the duty of any person or persons operating and/or having charge of any such train, engine, tender, car, or other part of a train referred to in Section 3.3-2.1 hereof to so operate such train, engine, car, or other part of such train as not to violate Section 3.3-2.1 hereof.

3.3-2.3 The provisions of this Ordinance shall be effective regardless whether any and/or all of the railroad crossings in the said Town of Clayton are equipped with gates, signals, lights, and/or any other signaling devices or are not so protected.

3.3-2.4 Any person convicted of violation of Section 3.3-2.1 and/or Section 3.3-2.2 of this Ordinance shall be fined \$50.00 for the first offense and \$100.00 for each subsequent offense.

SECTION 3.3-3
Ordinance Providing for the Prohibition of Off-Highway
Vehicles within the Town of Clayton

3.3-3.1 Vehicles under this Ordinance are defined as off-highway vehicles as defined under Title 21 of the Delaware Code §101(54).

3.3-3.2 It shall be unlawful to operate any vehicles as defined in Section 3.3-3.1 of this Ordinance in the Town of Clayton.

3.3-3.3 Any person who violates this Ordinance shall for the first offense be fined \$50.00. For each subsequent offense within one (1) year that person shall be fined \$100.00.

SECTION 3.3-4
Ordinance Providing for the Prohibition and Regulation
of Skateboards within the Town of Clayton

3.3-4.1 It shall be unlawful to use or operate any skateboard upon the public streets, sidewalks, and highways within the Town of Clayton.

3.3-4.2 It shall be unlawful for a parent or other person having legal or custodial care of any child up to the age of 18 years or any other person having legal custody appointed by the court of appropriate jurisdiction of such minor to permit or allow a child to violate 3.3-4.1 above.

3.3-4.3 Any person who violates this Ordinance shall for the first offense be fined \$10.00. Each subsequent offense shall be punishable by a fine of \$25.00.

<p style="text-align: center;">SECTION 3.3-5 The Abandoned, Wrecked, Dismantled, Inoperative or Unregistered Vehicle Ordinance</p>
--

3.3-5.1 Short Title

This Ordinance shall be known and may be cited as “The Abandoned, Wrecked, Dismantled, Inoperative, or Unregistered Vehicle Ordinance”.

3.3-5.2 Definitions

For the purposes of this Ordinance the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in any particular tense, gender, or number shall include any other tense, gender, or number necessary to render meaningful any language used herein. The word “shall” is always mandatory and never merely directory.

- a. Town is the Town of Clayton, a municipal corporation of the State of Delaware.
- b. Vehicle is any machine propelled by power other than human power designed to travel above, along, or below the ground by use of wheels, treads, runners, or slides to transport persons or property, to pull machinery or other trailers or carriages, and shall include without limitation any automobile, truck, trailer, motorcycle, tractor, buggy, or wagon.
- c. Wrecked, Dismantled, or Inoperable Vehicle is any vehicle, with our without a current and valid registration, which (1) is entirely or partially wrecked, junked, or dismantled, (2) is in such a state of disrepair as to be incapable of being operated in the manner for which it was designed or intended, or (3) has had its wheels, engine, transmission, or any other substantial part thereof removed.
- d. Person is any person, firm, partnership, association, corporation, company, or organization of any kind.
- e. Private Property is any real property within the Town which is privately owned and which is not defined as public property herein.

- f. Public Property is any real property in the Town which is owned by a governmental body and includes buildings, parking lots, parks, streets, sidewalks, right-of-way, easements, and other similar property.
- g. Abandoned Vehicle is any vehicle, with or without a current and valid registration, which is left unattended on public property for a period in excess of two (2) weeks under such circumstances as to cause such vehicle reasonably to appear to have been abandoned and includes, without limitations, any unregistered vehicle as defined herein.
- h. Unregistered Vehicle is any vehicle which is without a current and valid registration form or otherwise properly registered with the appropriate Division of Motor Vehicles and includes any vehicle without a license plate and any vehicle with a fictitious registration or a fictitious license plate.

3.3-5.3 Wrecked, Dismantled, Inoperable, or Unregistered Vehicles on Public Property Prohibited and Declared a Nuisance

No person shall park, store, leave, abandon, or permit the parking, storing, leaving, or abandonment of any wrecked, dismantled, or inoperable vehicle or any unregistered vehicle of any kind whether attended or not upon any public property within the Town for a period of time in excess of 72 hours. The presence of any such vehicle(s), or any parts thereof, on public property is hereby declared to be a public nuisance which may be abated in accordance with the provisions of this Ordinance. The temporary or intermittent movement or removal of such vehicle shall not be deemed to interrupt the running of the 72 hour period. This section does not apply to vehicles parked or stored on public property by the Town.

3.3-5.4 Abandonment of Vehicles on Public Property Prohibited and Declared a Nuisance

- a. No person shall park, store, leave, abandon, or permit the parking, storing, leaving, or abandonment of any vehicle (not otherwise prohibited as a wrecked, dismantled, inoperable vehicle, or otherwise prohibited as an unregistered vehicle) of any kind upon any public property within the Town even if bearing a

current and valid registration for a period of time in excess of two (2) weeks under such circumstances as to cause such vehicle reasonably to appear to have been abandoned. The presence of any such vehicle(s), or any parts thereof, under such circumstances is hereby declared to be a public nuisance which may be abated in accordance with the provisions of this Ordinance. This section does not apply to vehicles parked or stored on public property owned by the Town.

- b. Any person may notify the Clayton Police Department in writing of the fact that they will be absent from the Town or are otherwise unable to move their vehicle for an extended period of time (as specified therein) and, in such event, that person's vehicle shall not be deemed to be in violation of this section of this Ordinance until the expiration of two (2) weeks from the time specified by the written notice to the Clayton Police Department. Provided, however, that nothing in this paragraph shall excuse such persons from compliance with other Town Ordinances regulating the parking and/or storage of vehicles on public property in the Town.

3.3-5.5 Wrecked, Dismantled, Inoperable, or Unregistered Vehicles on Private Property Prohibited and Declared a Nuisance; Exceptions

- a. No person shall park, store, leave, abandon, or permit the parking, storing, leaving, or abandonment of any wrecked, dismantled, inoperable vehicle, or any unregistered vehicle of any kind whether attended or not upon any private property within the Town in excess of fifteen (15) days. The temporary or intermittent movement or removal of such vehicle shall not be deemed to interrupt the running of the fifteen (15) day period. The presence of any such vehicle(s), or any parts thereof, on private property is hereby declared a public nuisance which may be abated in accordance with the provisions of this Ordinance.

- b. This section shall not apply to:
 - (1) Any vehicle enclosed within a building or fence on private property in such a manner that it is not visible from without such enclosure.
 - (2) Any vehicle held in connection with a business enterprise lawfully licensed by the appropriate governmental agency for the servicing and repair of such vehicles and properly operated in an appropriate business zone pursuant to the Zoning Ordinances of the Town.

3.3-5.6 Order for Removal

- a. On Public Property. Whenever it comes to the attention of the Clayton Police Department that any nuisance as defined in Sections 3.3-5.3 or 3.3-5.4 of this Ordinance appears to exist on public property, the Clayton Police Department shall cause a written order to be affixed to the vehicle declaring the existence of the nuisance and ordering whosoever has an interest in the vehicle to comply with this Ordinance by removing said vehicle within 72 hours of the notice.
- b. On Private Property. Whenever it comes to the attention of the Clayton Police Department that any nuisance as defined in Section 3.3-5.5 of this Ordinance appears to exist on private property, the Clayton Police Department shall cause a written order to be affixed to the vehicle declaring the existence of the nuisance and ordering whoever has an interest in the vehicle to comply with this Ordinance by removing said vehicle within 72 hours of the notice. In addition to affixing an order to the vehicle itself, the Clayton Police Department shall attempt to deliver notice to the owner of said vehicle in person, in writing, telephonically, or by publication. If the owner cannot be identified or located, the owner shall be deemed to have been given notice after 20 days of affixing the required notice on said vehicle.

c. Form of Order. Any orders required under Section 3.3-5.6(a) above shall contain the following information:

- (1) A description of such vehicle including the make, year, model, color, and registration number if known;
- (2) The location of such vehicle;
- (3) The date and time that the order was affixed to the vehicle;
- (4) An order for removal within 72 hours from the time the order was affixed to the vehicle.
- (5) That upon failure to comply with the order for removal, the Clayton Police Department shall remove or cause to be removed such vehicle.

d. Form of Order

Any orders required under subsection 3.3-5.6(b) above shall contain the following information:

- (1) A description of such vehicle including the make, year, model, color, and registration number if known;
- (2) The location of such vehicle;
- (3) The date and time that the order was affixed to the vehicle;
- (4) An order for removal within 72 hours from the time the order was affixed to the vehicle;
- (5) That upon failure to comply with the order for removal, the Clayton Police Department shall remove or cause to be removed such vehicle;
- (6) That the owner of the vehicle and/or owner or occupant of the property upon which said vehicle is located may request a hearing before the Town Council at which hearing they may introduce such witnesses and evidence as they deem necessary and relevant to the issue of whether the vehicles constitutes a nuisance as defined herein. The order shall state that any request for a hearing shall be in writing addressed to the Town Clerk and filed within 72 hours (not counting weekends or

holidays) following the affixing of the order on the vehicle under subsection 3.3-5.6(b).

3.3-5.7 Hearing Procedures

- a. Upon receiving a request for a hearing pursuant to subsection 3.3-5.6(d)(6), the Town Clerk shall set the hearing for the next regular meeting of the Town Council and shall in addition to placing it upon the meeting agenda give notice to the person requesting the hearing and to the Clayton Police Department. No other notices are required.
- b. At such hearing the Clayton Police Department shall produce evidence relevant to the issue of whether or not the vehicle is a nuisance in violation of this Ordinance. The person requesting such hearing shall then be permitted to introduce such witnesses and evidence as he desires relevant to that issue.
- c. All witnesses shall be placed under oath. Strict rules of evidence shall not be required but the Town Council may accept any relevant evidence of a probative nature which, in the opinion of the Town Council, is such as could reasonably be relied upon by persons of common sense and prudence.
- d. At the conclusion of such hearing, the Town Council shall determine by majority vote whether or not they find that the vehicle constitutes a nuisance in violation of this Ordinance. Such determination with a brief statement of the findings upon which that decision was made shall be entered in the minutes of the meeting.

3.3-5.8 Removal of Vehicles

Within the time for removal set forth in the order of removal or within 72 hours of the hearing at which the Town Council determines that the vehicle is a nuisance in violation of this Ordinance, the owner of the abandoned, wrecked, dismantled, inoperable, or unregistered vehicle and (if on private property) the owner or occupant of the private property on which the same is located, any or all of them shall cause the removal of the vehicle. If the violation is not remedied within the

time set forth herein, the Clayton Police Department is hereby authorized to remove or have removed such vehicle from the premises. Except for the Clayton Police Department and employees of the Town working in concert with the Clayton Police Department, such vehicles shall be removed only by wreckers or towing services duly licensed by the State of Delaware. It shall be unlawful for any person to interfere with, hinder, or refuse to allow the Clayton Police Department and/or any person acting in concert with or at the direction of the Clayton Police Department to enter upon private property for the purpose of removing a vehicle under the provisions of this Ordinance.

3.3-5.9 Notice of Removal

- a. Within five (5) days of the removal of such vehicle, the Clayton Police Department shall give written notice (by certified mail, return receipt requested) to the registered owner of the vehicle if known; and if removed from private property, to the owner or occupant of the private property from which the vehicle is removed. The notice shall state that said vehicle has been impounded and stored for violation of this Ordinance. Additionally the notice shall give the location where the vehicle is stored.

3.3-5.10 Disposition of Motor Vehicles

Any person who tows, removes, stores, or keeps a vehicle at the direction of the Clayton Police Department acting under the provisions of this Ordinance shall, from the time of taking possession thereof, be entitled to all rights, remedies, and authority as provided under the Delaware “garage man’s lien” statute, Title 25 Delaware Code Chapter 39 as it may be amended from time to time hereafter or any future corresponding provision of law. In exercising such rights, remedies, and authority, such persons shall be governed in all respects by the terms of that statute.

3.3-5.11 Liability for Towing and Storage Expenses

- a. In the event that the Town should be or become liable for all or any portion of the expenses incurred in the removal and storage of such vehicle, the Town may:
 - (1) Recover same from the owner of the vehicle and/or the owner of the private property from which it was removed in an action for debt; or
 - (2) Add that amount to the tax bill of the person owning the private property from which the vehicle was removed or both provided, however, that whenever the private property from which such vehicle has been removed is occupied by a person other than the owner of the property, the occupant shall be primarily responsible and the Town shall not seek to recover from the owner of the property (either in an action at law or by tax collection proceedings) before it exhausts reasonable efforts to recover from the occupant; but this shall not prohibit the Town from joining both the property owner and occupant in one (1) action for debt.

3.3-5.12 Penalty

Any person knowingly causing or permitting a nuisance to exist in violation of this Ordinance shall forfeit and pay a fine of \$50.00 plus costs of prosecution for the first offense and pay a fine of \$100.00 plus costs of prosecution for each subsequent offense. Each day following the expiration of the 72-hour period for removal shall constitute a separate offense.

3.3-5.13 General

If any section subsection, paragraph, or other provision of this Ordinance or its application to any person or circumstances shall be held invalid or unconstitutional, such holding shall not affect the validity of any other section, subsection, paragraph, or other provision of its application to other persons or circumstances. The Town Council hereby expresses the intent that it would have enacted the other provisions of this Ordinance as if the invalid or unconstitutional provision was not contained therein.

<p style="text-align: center;">SECTION 3.3-6 Prohibiting Commercial Vehicles with Three or More Axles from all Streets: Exceptions</p>
--

3.3-6.1 Exceptions

- a. Except as hereinafter provided, no commercial vehicle having three or more axles shall be operated on any street in the Town of Clayton except on a "truck route" duly-designated by the resolution of the Town Council.
- b. Exceptions: This section shall not apply to any commercial vehicle with three or more axles:
 - (1) Making a local delivery to or pickup from a place in the Town incapable of being directly accessed from a designated "truck route". The driver must have available proof of the intended place of delivery or pickup and
 - (a) If entering the Town limits, shall use the most direct practical route from a designated "truck route" to and from the place of delivery or pickup, and
 - (b) If originating from within Town limits, shall use the most direct practical route to and from the place of delivery or pickup within the Town and/or the most direct practical route to a designated "truck route" if going outside the Town limits.
 - (2) Owned by or leased to the Town or any volunteer fire company or emergency response organization when engaged in official business including, by way of example, those vehicles of any fire department, any police department or agency, or to any town or state public works department or agency.
 - (3) Owned by, leased to, or operated by any public utility company (or its subcontractor) while engaged in public utility operations.

- (4) Garbage and solid waste haulers in the course of their business operations.
 - (5) Operated on any town street officially designated as a detour route where such vehicle could otherwise be lawfully operated upon the street for which such detour is established.
- c. Any person convicted of a violation of this section shall be fined \$50.00 for a first offense and \$100.00 for each subsequent offense.

<p style="text-align: center;">SECTION 3.3-7 Basketball Poles and Other Items Left in the Roadway</p>

3.3-7.1

- a. It shall be unlawful for any person to place, store, or keep upon any street or public sidewalk any portable, stationary, or fixed object including, but not limited to, basketball poles, hoops and nets, skateboard ramps, and/or any other type of object, device, or piece of recreational equipment.
- b. It shall also be unlawful for any person to allow any portion of any portable, stationary, or fixed object including, but not limited to, basketball poles, hoops and nets, skateboard ramps, and/or any other type of object, device, or piece of recreational equipment to overhang or intrude into or over a paved roadway or sidewalk.
- c. For purposes of this Section, the definition of “any street” shall be any paved surface upon which the public may engage in vehicular travel and includes any portion of that paved surface between opposing curb lines or the edges of the paved surface. The definition of “sidewalk” shall include any paved, brick, or concrete surface specifically designed for pedestrian travel.
- d. Any person who violates subsection (a) or (b) of this ordinance shall for the first offense be fined \$50.00 and for subsequent offenses shall be fined \$100.00. The Town of Clayton is hereby authorized to remove any such device or object left in violation of subsection (a) or (b) of this ordinance.
- e. The owner or resident of the property in front of which any such device or object is left in violation of subsection (a) or (b) of this ordinance shall be deemed the owner of such item for purposes of enforcing this ordinance.

SECTION 4.1-1 Business Licenses
--

4.1-1.1 Definitions

Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

- a. Business shall mean all kinds of vocations, occupations, professions, enterprises, establishments, and all other kinds of activities and matters together with all devices, machines, vehicles, and appurtenances used therein any of which are conducted for private profit or benefit, either directly or indirectly, on any premises in the Town of Clayton or anywhere else within its jurisdiction.
- b. License or Licensee shall mean and include respectively the words Permit or Permittee or the holder for any use or period of time of any similar privilege.
- c. Premises shall mean all lands, structures, places, and also the equipment and appurtenances connected or used therein in any business and also any personal property which is either affixed to or is otherwise used in connection with any business conducted on the premises.

4.1-1-2 Compliance

It shall be unlawful for any person, either directly or indirectly, to conduct any business or non-profit enterprise or to use in connection therewith any vehicle, premises, machine, or device in whole or in part of which a license or permit is required by this code without a license or permit thereof first being procured and kept in effect at all times required by this Ordinance.

4.1-1-3 What Constitutes Doing Business

For the purpose of this Ordinance, any person shall be deemed to be in business or engaging in non-profit enterprise when that person does any act in furtherance of selling any goods or services that amount to or is part of any regular and systematic course of business in the Town.

4.1-1.4 Contents of License Application

Every person required to procure a license under the provisions of this Ordinance shall submit an application for that license to the Town Foreman of the Town of Clayton. The application shall require:

- a. The name and business address of licensee;
- b. The trade, business, or occupation for which the license is requested;
- c. Current State of Delaware business license.

4.1-1.5 Granting of License

The Town Foreman for the Town of Clayton shall make all decisions concerning the granting of a business license.

4.1-1.6 Qualifications of Applicant

In determining whether to grant a business license, the Town Foreman of the Town of Clayton shall consider the following:

- a. Good moral character. In making that decision Council shall consider:
 - (1) Penal history. All convictions, the reasons therefore, and the demeanor of the applicant subsequent to his release.
 - (2) License history. The license history of the applicant, whether that person in previously operating in this or another state under a license has had the license revoked or suspended, the reasons therefore, and the demeanor of the applicant subsequent to that action.
 - (3) General personal history. Any other facts relevant to the general personal history of the applicant as shall be necessary to a fair determination of the eligibility of the applicant.
- b. Prior to the issuance of a Town of Clayton Business License, the applicant must obtain all necessary State approvals and licensing before the Town of Clayton license shall be issued. The applicant shall not have any pending violations with

the Town of Clayton. Further, the applicant shall not be in default under the provision of this ordinance, or indebted or obligated to the Town in any way, to include utilities and taxes.

- c. Compliance with zoning ordinances. All zoning ordinances must be complied.
- d. The business must not adversely affect the health, safety, or general welfare of the Town of Clayton.

4.1-1.7 License Fees

License fees shall be in the amount of \$50.00 and are to be paid annually.

4.1-1.8 General Standard of Conduct

Every licensee under this Ordinance shall:

- a. Comply with all laws, ordinances, regulations, and rules of the State, County, and the Town of Clayton.
- b. Avoid all practices or conditions that may adversely affect the public health, safety, or welfare of the Town of Clayton.
- c. Refrain from operating the licensed business after expiration of the license and during any period the license is revoked or suspended.

4.1-1.9 Display of License

Every license under this Ordinance shall post and maintain the license upon the licensed premises in a place where it may be seen at all times.

4.1-1.10 Transfer of License

There shall be no transfer of licenses or permits.

4.1-1.11 Summary Action

- a. When the conduct of any licensee, agent, or employee is so inimical to the public health, safety, and general welfare as to constitute a nuisance and thus give rise to an emergency, the Town Foreman of the Town of Clayton shall have the authority to summarily order the cessation of business and the close of the premises or to suspend or revoke the license.
- b. Unless waived in writing within ten (10) days after the Town Foreman of the Town of Clayton has acted summarily, the Town Council shall conduct a special hearing for the action in respect to the summary order. Notice of the hearing shall be given to the affected person by certified mail.

4.1-1.12 Penalties

Any individual, firm, business, or corporation who is in violation of this Ordinance shall upon conviction pay a fine of \$50.00 for the first offense and \$100.00 for each subsequent offense. Each day of noncompliance shall constitute a separate offense.

SECTION 4.1-2
Solicitation or Acceptance of Orders by Persons Not Having
a Regular Place of Business in the Town of Clayton

4.1-2.1 No person who does not maintain a regular place of business in the Town of Clayton shall solicit or accept orders for the delivery or supply of any articles or services at a later time and accept or collect payment therefore at the time of such order without first obtaining from the Town Council a permit to do so and providing a bond as hereinafter set forth.

The term "person" shall be construed for the purposes of this Ordinance to include any individual, partnership, firm, association, or corporation.

4.1-2.2 Any person who desires a permit required by this Ordinance shall apply in writing therefore to the Town Council. The application shall contain the following information.

- a. Name and address of the principal for which orders are to be solicited or accepted;
- b. Nature of the articles or services to be sold;
- c. Terms of the orders to be solicited or accepted;
- d. Names and addresses of all solicitors to be employed;
- e. Time or times of solicitation;
- f. Such other pertinent information as the Town may require.

4.1-2.3 Before the Town Council shall issue a permit required under this Ordinance, the applicant shall furnish a bond to the Town of Clayton in an amount not less than \$500.00 with a reputable surety approved by the Town Council. The term of any such bond shall be for a period of at least one (1) year and the condition thereof shall be that if the obligor shall promptly deliver the goods or services of a quality as represented at the time of the order(s) and at the time(s) agreed upon then and in that event said bond shall be void of not effect. Any such bond shall be for the use of any person(s) who suffers damages by

reason of the failure of the obligor to deliver goods or services as represented and at the time(s) agreed upon in any order solicited or accepted by such obligor in the Town of Clayton.

4.1-2.4 The fees for the permit required by Section 4.1-2.1 shall be the sum of \$50.00 for a person maintaining a place of business within the State of Delaware, and the sum of \$75.00 for a person who does not maintain a place of business in the State of Delaware.

4.1-2.5 Upon proper application furnishing of an adequate bond and payment of the required fee, the Town Council shall issue a permit as required by Section 4.1-2.1. Each such permit shall be limited to the time or times specified in the application there from and necessary for the accomplishment of the applicant's purpose and shall specify the solicitors to be employed.

4.1-2.6 Any person convicted of a violation of this Ordinance shall be fined \$100.00 for the first offense and \$200.00 for each subsequent offense.

The members of a partnership, firm, association, and the officers and directors of a corporation guilty of a violation of this Ordinance shall be subject to prosecution hereunder.

Every agent, representative, and solicitor who solicits or accepts orders in violation of the provisions of this Ordinance shall be subject to prosecution hereunder as well as the principal for who such orders are solicited or accepted.

SECTION 4.1-3 Junk Yards

4.1-3.1 It shall be unlawful to maintain a place for the buying, selling, or storing of junk, scrap, salvage, or any other waste or obsolete material within the Town of Clayton. Any person, corporation, or entity convicted for a violation of this Ordinance shall be fined \$100.00 for the first offense and \$200.00 for each subsequent offense. Each day of a continuing violation constitutes a separate offense.

SECTION 4.1-4 Street Excavations

4.1-4.1 A street excavation permit is required for any street excavation performed by any non-government activity or agent on a Town of Clayton maintained street including all easements and right-of-ways of the Town of Clayton.

4.1-4.2 An application for a street excavation permit shall be filed with the Town Foreman or his/her designee.

4.1-4.3 Upon satisfactory review of the application, the Town Foreman or his/her designee shall issue a street excavation permit. Said permit shall set forth conditions under which the permit has been issued.

4.1-4.4 The permit fee (non-refundable) shall be \$100.00.

4.1-4.5 A deposit of \$5.00 per square feet of excavation opening shall accompany the permit fee. The deposit shall be held in escrow to assure that the excavation is properly repaired. If the excavation is not properly repaired within fifteen (15) days, the Town shall make repairs and shall use all or part of the deposit to cover actual costs of the repairs made by the Town of Clayton.

4.1-4.6 All excavation repairs shall be in accordance with the specifications of the Town of Clayton. It is the responsibility of the permit holder to provide proper barricades and safety protection at the site.

4.1-4.7 Temporary Repairs and Emergency Excavations

- a. When temporary repairs are made, said repairs shall be permitted only for a fifteen (15) day period upon approval of the Town Foreman or his/her designee.
- b. Emergency repairs are permitted for gas main, water main, or other similar situations prior to the issuance of a permit providing a permit is secured the next regularly scheduled work day.

4.1-4.8 The Town Foreman is authorized to prepare an appropriate permit application in accordance with this Ordinance.

4.1-4.9 Violation under this Ordinance shall be punishable by a fine of \$50.00 for the first offense and \$100.00 for each subsequent offense.

SECTION 4.1-5 Dog Kennels

4.1-5.1 It shall be unlawful for any person(s), firm, or corporation to house and maintain more than two (2) dogs in the corporate limits of the Town of Clayton unless such person(s), firm, or corporation is a licensed kennel as provided for by this Ordinance.

4.1-5.2 Upon application for a license for the maintenance of a kennel within the corporate limits of the Town of Clayton, the Town Foreman shall inspect the premises and facilities thereon for which kennel licenses are requested. Upon approval of facilities, determination that maintenance of a kennel will not interfere with the peaceful enjoyment of adjacent properties and compliance with all zoning requirements, the applicant shall be issued a license to maintain a kennel within the corporate limits of the Town of Clayton. Said license must be renewed annually and is revocable as provided for by this Ordinance.

4.1-5.3 The Town of Clayton Foreman shall make an annual inspection of all kennels licensed under this Ordinance and a special inspection at any time upon petition signed by not less than five (5) residents of the Town of Clayton. In the event an inspected kennel should be deemed unclean, unfit, or a public nuisance the license holder shall have five (5) days from the day of inspection to remedy such unsatisfactory condition to the satisfaction of the said Town Foreman or suffer revocation of his/her license.

4.1-5.4 Violation under this Ordinance shall be punishable by a fine of \$50.00 for the first offense and \$100.00 for each subsequent offense and each day of violation shall be deemed a subsequent separate offense.

<p style="text-align: center;">SECTION 4.1-6 Ordinance Concerning the Registration and Licensing of Dogs</p>
--

4.1-6.1 Every person who owns, controls, harbors, possesses, or keeps any dog over the age of six (6) months in the Town of Clayton shall register and procure a license for said animal from the Town of Clayton by April 15th of each calendar year.

4.1-6.2 The cost of such license is \$3.00 and is to be purchased from the Town Office.

4.1-6.3 In order to obtain such license, a person shall provide to the Town of Clayton proof that such dog has a license from the State of Delaware for the current calendar year. Additionally, the person requesting the license shall provide to the Town of Clayton the name, age, breed, color, and owner of such dog.

4.1-6.4 The Town of Clayton will provide each licensed dog with a tag which is to be displayed on such dog for the current calendar year.

4.1-6.5 Any person who fails to register and procure a license and/or fails to display a tag for such licensed dog for the current calendar year shall be subject to a fine of \$50.00 for the first offense and \$100.00 for each subsequent offense.

TITLE 5 Subdivision

Please refer to the Subdivision Ordinance Manual for the Town of Clayton.

TITLE 6 Zoning

Please refer to the Zoning Ordinance Manual for the Town of Clayton.

<p style="text-align: center;">SECTION 7.1-1 Ordinance of the Town of Clayton Adopting a Realty Transfer Tax</p>
--

7.1-1.1 Definitions

For the purpose of this Ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- a. Town Clerk. The Town Clerk of the Town of Clayton.
- b. Document. Any deed, instrument, or writing whereby any real estate within the corporate limits of the Town of Clayton or any interest therein shall be quit-claimed, bargained, sold, or otherwise conveyed to the grantee but shall not include the following exceptions as described in Title 30, Chapter 54 of Delaware Code §5401 which are hereby adopted and incorporated herein as exceptions to the definition of documents in this Ordinance. To the extent that other sections under Title 30, Chapter 54 are referenced in Title 30, Delaware Code §5401, included but not limited to §5401(4), (5), and (6) these sections are also hereby adopted and incorporated herein by reference.
- c. Transaction. The making, executing, delivering, accepting, or presenting for recording of a document.
- d. Value. In the case of any document granting, bargaining, selling, or otherwise conveying any land, tenement, hereditaments, or interest therein, the amount of the actual consideration therefore, including liens or other encumbrances thereon and ground rent, or a commensurate part of the liens or other encumbrances and ground rent also encumber other lands, tenements, or hereditaments. Where such document shall not set forth the real or bona fide consideration therefore, the "value" thereof shall be determined from the price set forth in or actual consideration for the contract of sale; or in the case of a gift or any other document without consideration, from the actual monetary worth of the property granted, bargained, sold, or otherwise conveyed which in either event shall not be less than the amount of the estimated full value of such lands, tenements, or

hereditaments for local tax purposes as determined by the Board of Assessment of Kent County, State of Delaware.

7.1-1.2 Levy of Tax; Exemptions

- a. Every person who makes, executes, issues, or delivers any document or in whose behalf any document is made, executed, issued, or delivered shall pay therefore and in respect thereof, or for and in respect to the vellum, parchment, or paper upon which such document is written or printed a tax at the rate of one and one-half percent (1.5%) of the value of the property represented by such document which tax shall be payable at the time of the making, execution, issuance, or delivery of such document said tax is to be apportioned equally between grantor and grantee unless otherwise provided for by agreement of the parties.
- b. Where a person acquires title to any lands, tenements, or hereditaments as a nominee or as a straw party for the real grantee or purchaser, the transfer of such title by such nominee or straw party to the real grantee or purchaser shall be exempt from this tax.
- c. Where a person acquires title to any lands, tenements, or hereditaments for the purpose of holding same as a nominee or as a straw party for the grantor, such transfer of title to the nominee or straw party shall be exempt from this tax.

7.1-1.3 Payment of Tax Generally

- a. The payment of the tax imposed by this Ordinance shall be evidenced by the use of a mechanical or electronic device indicating the amount of tax imposed.
- b. The evidence of payment and the collection of the tax shall be collected by the Kent County Recorder of Deeds at the time of recordation of the document.

- c. The Town of Clayton will provide to the Kent County Recorder of Deeds the mechanical or electronic device to indicate the amount of tax imposed if required by the Kent County Recorder of Deeds.
- d. The Kent County Recorder of Deeds may charge a reasonable fee for the collection of the tax imposed and shall forward the tax to the Town of Clayton.
- e. The tax imposed by this Ordinance shall be fully paid and have priority out of the proceeds of any judicial sale of real estate before any other obligation, claim, lien, judgment, estate, or costs of the sale and of the writ upon which the sale is made, and the sheriff or other officer conducting such sale shall pay the tax herein imposed out of the first monies paid to him/her in connection therewith, unless previously paid by any party provided, however, that any tax imposed by the state shall have priority over the tax imposed under this Ordinance. The value for determining the tax shall be the highest of the following:
 - (1) The bid price;
 - (2) The amount of the mortgage not in excess of the fair value of the real estate;
 - (3) The estimated full value;
 - (4) The full and complete value pursuant to Section 7.1-1.1(d).

7.1-1.4 Liability for Payment of Tax as Between Parties

As between the parties to any transaction which is subject to the real estate transfer tax imposed by this Ordinance in the absence of an agreement to the contrary, the burden for paying such tax shall be on the grantor.

7.1-1.5 Recordation of Documents

No document shall be recorded in the office of the Recorder of Deeds in and for Kent County unless otherwise acceptable under the rules and regulations of Kent County.

7.1-1.6 Use of Funds

In accordance with the provisions of Title 22 Delaware Code §1601(c), any funds realized by the Town of Clayton pursuant to this Ordinance shall be segregated from the Town's general fund and said funds together with all interest thereon shall be expended solely for the capital operating costs of public safety services, economic development programs, public work services, capital projects and improvements, infrastructure projects and improvements, and debt reduction.

7.1-1.7 Miscellaneous

- a. This Ordinance is adopted pursuant to the authority granted by the Town of Clayton Town Charter, being Chapter 291, Volume 66, of the Laws of Delaware, as amended, and the authority granted by House Bill No. 757 of the 139th General Assembly of the State of Delaware.
- b. If any section, subsection, paragraph, or other provision of this Ordinance or its application to any person or circumstances shall be held invalid or unconstitutional, such holding shall not affect the validity of any other section, subsection, paragraph, or other provision of its application to other persons or circumstances. The Town Council hereby expresses the intent that it would have enacted the other provisions of this Ordinance as if the invalid or unconstitutional provision was not contained therein.

<p style="text-align: center;">Section 7.1-2 Ordinance of the Town of Clayton Adopting a Real Property Tax</p>
--

7.1-2.1 Definitions

For the purpose of this Ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- a. Person – the term “person” includes corporations, companies, associations, trustees, business trust, firms, partnerships, societies and joint stock companies, as well as individuals.
- b. Tax Year – the term “tax year” means the fiscal year beginning July 1 of each calendar year and ending June 30 of the following calendar year.

7.1-2.2 Levy of Tax

Every person owning real property, including land and improvements within the Town limits of the Town of Clayton on January 1, shall pay a tax upon such property except upon such property that may be exempt from taxation under Delaware law and under the laws and the Charter of the Town of Clayton.

7.1-2.3 Assessment of Tax

- a. Such tax on real property shall be based on the assessed value thereof as lawfully determined by the Town of Clayton Assessor's Office or in conformity with Chapter 11 of Title 22 of the Delaware Code and with Section 7.1 of the Town Charter.
- b. Real property shall be assessed as of January 1 of the current tax year and taxes shall be levied thereon in the manner and at the time provided in this Chapter.
- c. In accordance with Article VII of the Town Charter, a copy of the assessment roll shall be prepared and submitted to the Council at least sixty (60) days before the beginning of the tax year. Upon approval of the Council, the roll as prepared or

as modified by the Council will be posted for the public in a place in the Town designated by the Council at least 45 days before the beginning of the tax year.

7.1-2.4 Rate of Tax

Except as exempted by Ordinance or as otherwise provided for, all real property shall be subject to a tax upon 100 percent of its fair market value determined in the manner provided by this Chapter, at a rate of \$0.75 per \$100 of the assessed full market value.

7.1-2.5 Due Date

The real property tax shall be due and payable by September 30 after the end of the tax year.

7.1-2.6 Penalty for Unpaid Taxes

If all or any part of the tax assessed against a property has not been paid on or before September 30, the owner of such property shall be liable for a penalty of one percent (1%) of the unpaid balance of such tax for each month thereafter until the tax is paid in full.

7.1-2.7 Lien

A lien in favor of the Mayor and Town of Clayton in the amount of any unpaid tax and penalty shall attach and become effective with respect to each property on the date such tax and penalty shall become due and payable, and shall remain in effect until such tax and penalty has been paid.

7.1-2.8 Appeals

In accordance with Article VII of the Town of Clayton Charter, the Council shall hold a Court of Appeals each year at least thirty (30) days before the beginning of the tax year. Any taxpayer or owner who may deem himself or herself aggrieved by an assessment made under this Chapter may appeal from that assessment provided notice of such appeal is given to the Town ten (10) days before the next Town Court of Appeals session.

7.1-2.9 Severability

If any section, subsection, paragraph, or other provision of this Ordinance or its application to any person or circumstances shall be held invalid or unconstitutional, such holding shall not affect the validity of any other section, subsection, paragraph, or other provision or its application to other persons or circumstances. The Town Council hereby expresses the intent that it would have enacted the other provisions of this Ordinance as if the invalid or unconstitutional provision was not contained therein.

7.1-2.10 Exemptions

- a. Any property belonging to the State, or the United States, or any county of the State of Delaware, or owned by the Town and held for public use, or belonging to any church or religious society, and not held by way of investment, or belonging to any college or school and used for educational or school purposes shall not be liable for taxation and assessment under this Section.
- b. A property owner may apply for a claim of exemption from property taxes for the current calendar year by completing an application no sooner than January 1 and no later than April 30 of each year. The application must include documentation from the Internal Revenue Service, the State of Delaware and/or Kent County indicating the name and Employer Identification Number (EIN) of the organization, the contact information of the organization administrator and a copy of the deed or other document demonstrating property ownership by the organization.
- c. After the initial year for which the real property has qualified for an exemption, a claim for an exemption shall be filed annually on or before April 30, together with a document from the organization certifying that it continues to maintain its tax exempt status.

- d. This subsection shall apply to property owned in fee simple or leased or rented for a period of one year or more to a qualified tax-exempt organization under this subsection, the lease or rental agreement being in force at the time the exemption is claimed.

<p style="text-align: center;">SECTION 7.2-1 Ordinance Providing Partial Tax Exemptions for Totally Disabled Property Owners and Property Owners 65 Years of Age and Older</p>

7.2-1.1 Title

This Ordinance shall be known as the Ordinance Providing Partial Tax Exemption for Totally Disabled Property Owners and Property Owners 65 Years of Age or Older.

7.2-1.2 Qualifications for Participation

To qualify under this Ordinance, an applicant must be either:

- a. Totally disabled and able to document said disability by meeting the definition “totally disabled” as defined by Social Security Disability or by filing certified copies of any award letters from government agencies indicating that the applicant is totally disabled; or
- b. 65 years of age or older at the beginning of the tax year for which the application is made.

However, an individual may only apply for inclusion under this Ordinance under one of the two provisions above. All financial obligations to the Town of Clayton must be current.

7.2-1.3 Residency Qualifications

The dwelling for which the exception is sought must be the principal place of residence of the applicant at the time of application and must have been the principal place of residence for the past twelve (12) months immediately preceding the tax year for which application is being made and the Applicant must have been a Delaware resident for at least five (5) years immediately preceding the tax year for which the application is being made.

7.2-1.4 Ownership Qualifications

Title to the property for which the exemption is sought must be in the name of the applicant, or if married, in the name of the applicant and applicant’s spouse as reflected in the official records of

Kent County. In the event that the ownership of the residence dwelling is shared by the applicant and spouse with others who do not qualify for participation under this Ordinance, then the exception permitted in Section 7.2-1.8 shall apply to the proportionate share of the residence dwelling owned by the applicant and spouse. In addition, no application for exemption will be accepted unless applicant has made a similar application with and approved by the Levy Court of Kent County.

7.2-1.5 Eligible Property

Property considered eligible for inclusion under this Ordinance shall be only the residence dwelling owned by an eligible applicant and, if applicable, up to one (1) acre of land upon which it is located. Land which has been included under the State of Delaware Farmland Assessment Act shall not be eligible for partial tax exemption under this Ordinance.

7.2-1.6 Income Limits

The total adjusted gross annual income of a single applicant shall not exceed \$16,000. The combined total adjusted gross annual income of an applicant and spouse residing together in the subject dwelling shall not exceed \$22,000. An additional \$1,300 per year may be added to the maximum adjusted gross annual income for each additional dependent residing in the dwelling of a qualified applicant for who the applicant is the sole means of support. For the purposes of this Ordinance, the word “dependent” shall be defined by the Internal Revenue Service.

7.2-1.7 Income Exclusions

Social Security, Railroad Retirement Tier I, and if disabled pension income directly related to the applicant’s disability shall be excluded from the calculation of the gross annual income.

7.2-1.8 Exemption Limit

An applicant who otherwise qualified under this Ordinance shall be entitled to an exemption from all real property taxes on the first \$18,000 of assessed value of the applicant’s eligible property as

defined in Section 7.2-1.5. This exemption shall not apply to local ditch taxes, sewer, trash, water, or other fees.

7.2-1.9 Application Filing Requirements

Applicants or their legal agents must file for exemption in the Office of Assessor in care of the Town Clerk, Town of Clayton in the manner determined no later than April 15th prior to the tax year for which the exemption is sought and must verify their eligibility in writing every year thereafter to continue to qualify for the exemption.

7.2-1.10 Determination of Eligibility

Based on the information submitted by the applicant and on county records evidencing that Kent County has previously approved a similar exemption, the Town Council shall determine whether the application qualifies for the exemption permitted by this Ordinance.

7.2-1.11 Termination of Eligibility

Eligibility under this Ordinance shall terminate automatically when the applicant fails to meet any of the conditions stated herein.

7.2-1.12 Appeals

An applicant may appeal the disposition of an exemption claim in the same manner as is provided for appeals from assessments. The deadline for filing written appeals shall be the second monthly Town Council meeting in May prior to the tax year for which the exemption is sought. Appeal hearings will be scheduled at the convenience of the Town Council.

7.2-1.13 Severability

The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause, or paragraph shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

<p style="text-align: center;">SECTION 8.1-1 Ordinance Authorizing an Increase in Compensation Paid to Members of Council</p>

8.1-1.1 Under the provisions of the Clayton Town Charter, Council may determine the annual salary of the council members by Ordinance, but no ordinance increasing such salary shall become effective until the day of the commencement of the terms of the members of the Council elected at the next regular election provided that such election follows the adoption of such ordinance by at least six (6) months.

Therefore, in accordance with the Clayton Town Charter, the annual salary for each Council member shall be as follows:

- a. Each council member shall receive the sum of \$25.00 per meeting if attended.
- b. The President of Council shall receive the sum of \$50.00 per meeting if attended.

8.1-1.2 The above referenced compensation shall be paid in accordance with Article 4, Section 3.7 of the Clayton Town Charter as recorded in 66 Laws of Delaware, Chapter 291.

<p style="text-align: center;">SECTION 8.2-1 Ordinance to Permit Town Foreman to Enforce Ordinances of the Town of Clayton</p>
--

8.2-1.1 The Town Council finds and determines that the people of the Town of Clayton would be best served by expanding the powers of the Town Foreman, who also acts as the administrator under the Town of Clayton's Zoning Ordinance, to also be empowered with the specific power to enforce the zoning ordinance and other ordinances of the Town of Clayton which result in a civil summons.

8.2-1.2 Subject to the specific provisions of this Ordinance, the Town Foreman of the Town of Clayton shall be accorded and authorized to enforce all ordinances of the Town of Clayton that pertain to public zoning and the health, safety, and welfare of the Town of Clayton pursuant to Article IV, 4.1, General Powers of the Town of Clayton, and shall be accorded the same authority to issue a summons and complaint for prosecution of a civil action for damages or fines in a court of competent jurisdiction pursuant to Article V of the Charter of the Town of Clayton.

The Town Foreman of the Town of Clayton shall have the authority to take such actions as may be prescribed from time to time by the Council of the Town of Clayton except that he/she shall not have the authority to issue summons or enforce the following:

- a. Any parking, traffic ordinance, or laws pertaining to public roads.
- b. Any ordinance or law pertaining to any misdemeanor or felony or any violation of Title 11 and/or Title 21 of the Delaware Code.
- c. Any curfew violations.
- d. Any ordinance or law pertaining to loitering, gambling, prostitution, alcohol, drugs, or any ordinance which requires a criminal investigation or arrest.
- e. Any ordinance or law pertaining to any matter which could result in a criminal prosecution.

8.2-1.3 The Town Foreman of the Town of Clayton shall not have the power to make an arrest, but shall have the power to issue a summons and complaint on a form prescribed by the Town of Clayton and shall have the authority to prosecute a civil action for damages or fines in a court of competent jurisdiction.

<p style="text-align: center;">SECTION 8.3-1 Ordinance Providing for a Procedure to Annex Unincorporated Territory Contiguous to the Town of Clayton</p>

8.3-1.1 Pursuant to Section 4.2(15) of the Town Charter of Clayton, Delaware, “The Town shall have the authority to adopt ordinances to exercise all powers and authorities vested in the Town by virtue of Chapter 3, Title 22 of the Delaware Code regarding the zoning and subdivision of lands as the same may, from time to time hereafter be amended.”

The Town of Clayton is authorized to alter its boundaries by the annexation of new territory in the manner hereinafter set forth provided however that no territory not contiguous to the Town at the time of annexation may be annexed into the Town.

8.3-1.2 The Town Council shall adopt a resolution proposing the inclusion of territory within the limits of the Town of Clayton and calling for a special election to be held. The resolution shall contain a description of the territory proposed to be annexed and shall specify the date, time, and place(s) or said election. The resolution shall be published at least twice in a newspaper of general circulation in the Town of Clayton at least two (2) weeks but no more than four (4) weeks before the day of the election.

8.3-1.3 If more than one (1) territory is involved in any resolution, elections may be held in more than one (1) of them on the same day, but the elections shall be separate; only the votes of the qualified voters and real estate owners of a territory shall be counted in the election to determine whether that territory shall be annexed.

8.3-1.4 At any such election, the following rules shall govern voting:

- a. Each legal entity (whether an individual, partnership, corporation, association, trust, or any other entity capable of holding legal title) owning property solely in its own name shall be entitled to one (1) vote. Where title is jointly held, each joint owner shall be entitled to one (1) vote. Where property is held in a life

estate, the holders of the life estate shall be deemed for purposes of this provision to be the owners in fee thereof and entitled to vote accordingly.

- b. Each bona fide domiciliary of the territory shall be entitled to one (1) vote provided they are 18 years of age or older and have resided in the territory for at least 30 days prior to the day of the election.
- c. These rules shall be construed so as to permit only "one person, one vote". Where a voter is entitled to vote by virtue of both residence and ownership of property in the territory, that voter shall be entitled to vote only one (1) vote; where a voter is entitled to vote by virtue of ownership of two (2) or more properties in the territory, that voter shall be entitled to only one (1) vote.
- d. Any legal entity entitled to vote (other than a natural person) must cast their vote by a duly executed power of attorney. Any natural person entitled to vote may cast his vote in person by a duly expressed power of attorney; however, no person whose name is not listed either as a taxpayer or voter in the Town of Clayton shall be entitled to authorize another person to cast his vote by use of a Power of Attorney.

8.3-1.5 Any such election shall be conducted by the Elections Board of the Town of Clayton who shall make all decisions concerning eligibility of voters, validity of Powers of Attorney, and other similar matters pertaining to the conduct of the election. The Town Council shall bear the cost of conducting the election and shall provide ballots. The ballots shall briefly but clearly indicate the territory proposed to be annexed into the Town and shall provide two (2) boxes beside which shall appear the words: "For inclusion within the Town of Clayton" and "Against inclusion within the Town of Clayton". Each voter shall indicate their preference by making a mark within the box beside the words expressing their preference.

8.3-1.6 When the polls are closed, the election officers shall publicly count the votes and forthwith certify to the Secretary of the Council the number of votes cast for and against the inclusion within the Town limits. At the next regular or special meeting of the Council, the Mayor and Council shall receive the results of the election and make the same a part of the minutes of said meeting.

8.3-1.7 If a majority of the votes cast in an election held in a territory proposed to be annexed shall be in favor of the inclusion of that territory, the Council shall thereupon adopt a resolution annexing said territory and including it within the limits of the Town of Clayton. Upon the adoption of a resolution of annexation, a copy thereof certified by the Secretary of the Council and a plot of the area annexed shall be forthwith filed for record with the Recorder of Deeds of Kent County or New Castle County and the area so annexed shall for the purposes thenceforth be a part of the Town of Clayton.

8.3-1.8 If a majority of the votes cast in an election held in a territory proposed to be annexed shall be against the inclusion of the territory within the limits of the Town of Clayton, the proposed annexation shall be declared by the Town Council to have failed.

8.3-1.9 If only one (1) territory is involved in the proposed annexation and the petition or request received by the Town is signed by all of the owners of said territory, then no election shall be held and said territory may be annexed into the Town of Clayton by resolution duly accepted by the Town of Clayton.

8.3-1.10 Any territory to be included within the Town of Clayton must conform to any and all laws, ordinances, and regulations of the Town of Clayton including but not limited to the Town Charter.

<p style="text-align: center;">SECTION 8.4-1 Ordinance Pertaining to Daycare Centers and Nursery Schools</p>
--

8.4-1.1 Daycare centers and nursery schools as defined under Title 31, Section 390 of the Delaware Code shall be permitted within the Town of Clayton provided that:

- a. Hours shall not commence until 6:00 a.m. and shall end by 7:00 p.m.
- b. All daycare centers and nursery schools must meet the State of Delaware Department of Services of Children, Youth, and their Family license service requirement and be otherwise properly licensed and have their licenses available for inspection by the Town of Clayton Inspections & Enforcement Department.
- c. Business licenses to be renewed each year must be obtained from the Town of Clayton.
- d. All Town of Clayton zoning ordinance requirements must be complied with prior to the issuance of any business license.

<p style="text-align: center;">SECTION 8.5-1 Ordinance Concerning the Regulation of Rates Charged by Cable Television Operators</p>

8.5-1.1 The Town of Clayton, as Franchising Authority, has the legal authority to administer and shall enforce against any non-municipally owned cable television system operator, as permitted therein, the provisions of Part 76(N) of the Rules and Regulations of the Federal Communications Commission concerning Cable Rate Regulation. 47C.F.R. §76.900 et seq., as they currently read and hereafter may be amended which are herewith incorporated by reference.

8.5-1.2 Any rate regulation proceedings conducted under Section 8.5-1.1 hereto shall provide a reasonable opportunity for consideration of the views of any interested party, including but not limited to, the Franchising Authority or its designee, the cable operator, subscribers, and residents of the franchise area. In addition to all other provisions required by the laws of the State of Delaware and the Town of Clayton for such proceedings and in order to provide for such opportunity for consideration of the views of any interested party, the Franchising Authority shall take the following actions:

- a. Franchising Authority shall publish in a local newspaper, post in a conspicuous place in the Town Hall of the Town of Clayton, and mail by certified mail to the cable operator a public notice of the intent to conduct a public proceedings on basic service tier rates and/or charges for equipment to receive such basic service tier as defined by the FCC.
- b. Said public notice shall state among other things that cable television rates are subject to municipal review and explain the nature of the rate review in question, that any interested party has a right to participate in the proceeding, that public views may be submitted in the proceeding explaining how they are to be submitted and the deadline for submitting any such views, that a decision concerning the reasonableness of the cable television rates in question will be governed by the rules and regulations of the Federal Communications

Commission (FCC), and that the decision of the Franchising Authority is subject to review by the FCC.

- c. The Franchising Authority shall conduct a public proceeding to determine whether or not the rates or proposed rate increase are reasonable. The Franchising Authority may delegate the responsibility to conduct the proceeding to any duly qualified and eligible individual(s) or entity. If the Franchising Authority or its designee cannot determine the reasonableness of a proposed rate increase within the time period permitted by the FCC rules and regulations, it may toll the effective date of the proposed rates for an additional period of time as permitted by the FCC rules and regulations, and issue any other necessary or appropriate order and give public notice accordingly.
- d. In the course of the rate regulation proceeding, the Franchising Authority may request additional information from the cable operator that is reasonably necessary to determine the reasonableness of the basic service tier rates and equipment charges. Any such additional information submitted to the Franchising Authority shall be verified by an appropriate official of the cable television system supervising the preparation of the response on behalf of the entity and submitted by way of Affidavit or under penalty of perjury stating that the response is true and accurate to the best of that person's knowledge, information, and belief formed after reasonable inquiry. The Franchising Authority may request propriety information provided that the Franchising Authority shall consider a timely request from the cable operator that said proprietary information shall not be made available for public information consistent with the procedures set forth in Section 0.459 of the FCC Rules and Regulations. Furthermore, said proprietary information may be used only for the purpose of determining the reasonableness of the rates and charges or the appropriate rate level based on the cost of service showing submitted by the cable operator. The Franchising Authority may exercise all powers under the

laws of evidence applicable to administrative proceedings under the laws of the State of Delaware and the Town of Clayton to discover any information relevant to the rate regulation proceeding including but not limited to subpoena, interrogatories, production of documents, and deposition.

- e. Upon termination of the rate regulation proceeding, the Franchising Authority shall adopt and relate a written decision as to whether or not the rates or proposed rate increase are reasonable or unreasonable; and if unreasonable, its remedy including prospective rate reduction, prescription, and refunds.
- f. The Franchising Authority may not impose any fines, penalties, forfeitures, or other sanctions other than permitted by the FCC Rules and Regulations for charging an unreasonable rate or proposing an unreasonable rate increase. However the Franchising Authority may impose fines or monetary forfeitures on a cable operator that does not comply with a rate decision or refund order of the Franchising Authority, directed specifically at the cable operator, pursuant to the laws of the State of Delaware Codes, Rules, and Regulations of this Town.
- g. Consistent with FCC Rules and Regulations, the Franchising Authority's decision may be reviewed only by the FCC.
- h. The Franchising Authority shall be authorized at any time whether or not in the course of a rate regulation proceeding to gather information as necessary to exercise its jurisdiction as authorized by the laws of the State of Delaware, the Communications Act of 1934 as amended, and the FCC Rules and Regulations. Any information submitted to the Franchising Authority shall be verified by an appropriate official of the cable television system supervising the preparation of the response on behalf of the entity and submitted by way of Affidavit or under penalty or perjury stating that the response is true and accurate to the best of that person's knowledge, information, and belief formed after reasonable inquiry.

8.5-1.3 The Franchising Authority shall file with the FCC the required Certification Form (FCC Form 328) on September 1, 1993, or as soon thereafter as appropriate. Thirty (30) days later or as soon thereafter as appropriate, the Franchising Authority shall notify the cable operator that the Franchising Authority has been certified by the FCC and that it has adopted all necessary regulations so as to begin regulating basic service tier cable television rates and equipment charges.

8.5-1.4 With regard to the cable programming service tier as defined by the Communications Act of 1934 as amended, the FCC Rules and Regulations and over which the Franchising Authority is not empowered to exercise rate regulation, the cable operator shall give notice to the Franchising Authority of any change in rates for the cable programming service tier or tiers, any change in the charge for equipment required to receive the tier or tiers, and any changes in the nature of the services provided including the program services included in the tier or tiers. Said notice shall be provided within five (5) business days after the change becomes effective.

8.5-1.5 The Franchising Authority may delegate its powers to enforce this Ordinance to municipal employees or officers ("cable official"). The cable official will have the authority to:

- a. Administer oaths and affirmations;
- b. Issue subpoenas;
- c. Examine witnesses;
- d. Rule upon questions of evidence;
- e. Take or cause depositions to be taken;
- f. Conduct proceedings in accordance with this law;
- g. Exclude from the proceedings any person engaging in contemptuous conduct or otherwise disrupting the proceedings;
- h. Hold conferences for the settlement or simplification of the issues by consent of the parties; and

- i. Take actions and make decisions or recommend decisions in conformity with this Ordinance.

8.5-1.6 Insofar as the provisions of this Ordinance are inconsistent with the provisions of any other local law or act, the provisions of this Ordinance shall be controlling.

<p style="text-align: center;">SECTION 8.6-1 Ordinance Concerning the Duty to Post Property Street Numbers</p>
--

8.6-1.1 Duty to Post Numbers

Every house, building, or structure used or intended for use as living quarters or as a place for conducting business and having any wall facing or abutting any public or private street or alley shall have displayed on that wall in legible, easily read characters which are of contrasting color to the background the property street number of such house, building, or structure.

8.6-1.2 One- and Two-Family Residential Structures

- a. The number shall measure a minimum of four (4) inches in height.
- b. The number shall be placed on the house above or to the left or right of the front entrance.
- c. The number shall be contrasting to the background color.
- d. All numbers shall be Arabic numerals.

8.6-1.3 Multiple Family Dwellings

- a. The number shall measure six (6) inches in height.
- b. Numbers shall be placed either in the center of the building or on the street end of the building so as to be visible from either the public or private street or from the parking lot.
- c. Numbers shall be contrasting to the background color.
- d. All numbers shall be Arabic numerals.

8.6-1.4 Commercial, Industrial, and Office Buildings

- a. The numbers shall measure a minimum of six (6) inches in height.
- b. Numbers shall be placed either in the center of the building or on the street end of the building so as to be visible from either the public or private street or from the parking lot.

- c. Should the building be located far enough from a public or private road so that the numbers are not clearly visible from the street then the street address shall also be posted on the property at or near the property line or driveway to said building.
- d. Numbers shall be contrasting to the background color and shall be placed on each building in the complex.
- e. All numbers used shall be Arabic numerals.

8.6-1.5 Maintenance of Numbers

Following the posting of assigned numbers, the owner or occupant shall maintain such house or building number contrasting to the building background and visible from a public or private street or parking lot at all times.

8.6-1.6 New Construction

Every house, building, or structure that is under new construction shall have the lot number posted during construction so that such lot number is easily visible from the closest public or private street or alley.

8.6-1.7 Enforcement

Any person, firm, or corporation violating the provisions of this Ordinance shall be punishable by a fine of \$50.00 for the first offense and \$100.00 for each subsequent offense.

<p style="text-align: center;">SECTION 8.7-1 Duty to Install Key Box System</p>

8.7-1.1 All new businesses within the Town of Clayton that operate from a building or structure shall within 30 days of opening for business permanently attach to its building or structure a key box system which shall be of a kind used and approved by the Town Foreman.

8.7-1.2 The owner of any new business shall be responsible for the cost of purchasing and installing the key box system described herein.

8.7-1.3 Any new business violating any provision of this ordinance shall pay a \$50.00 fine for the first offense and \$100.00 for each subsequent offense. Each 24-hour period in which the key box is not installed shall constitute a separate offense.

<p>SECTION 8.8 Absentee Voting</p>
--

Pursuant to 15 Del. C § 7556, the absentee voting process for the Town of Clayton shall be as set forth in 15 Del. C §§ 5503 – 5524 (excepting therefrom §§ 5503 (b)(2) and § 5522 (b)).

<p style="text-align: center;">SECTION 9 Flood Plain Ordinance</p>
--

Please refer to the Flood Plain Ordinance Manual for the Town of Clayton.

<p style="text-align: center;">SECTION 10 International Building Code 2012 Edition and 2012 Property Maintenance Code</p>

Please refer to the International Building Code 2012 Edition and 2012 Property Maintenance Code.